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MEMORIAL OF THE CHOCTAW AND CHICKASAW NATIONS

RELATIVE TO THE

Rights of the Mississippi Choctaws

SUBMITTED FOR CONSIDERATION
IN CONNECTION WITH H. R. 19213

WASHINGTON
1913

west of the Mississippi River situate between the Arkansas and Red Rivers, and bounded as follows: Beginning on the Arkansas River where the lower boundary line of the Cherokees strikes the same; thence up the Arkansas to the Canadian Fork, and up the same to its source; thence due south to the Red River; thence down Red River 3 miles below the mouth of Little River, which empties itself into Red River on the north side; thence a direct line to the beginning.

The land thereby acquired by the Choctaw Nation in exchange for the 4,000,000 acres of their land in the State of Mississippi embraced all of the land that the Choctaw Nation ever acquired west of the Mississippi River.

During the decade following the date of this treaty the Southeastern States were being rapidly settled by white persons, and it was determined by the authorities of the United States that it was desirable to effectuate the removal of all the Indians residing in that locality to a territory to be set apart to them west of the Mississippi River. The Choctaws by their treaty of 1820 had already acquired a large domain west of the river, and commissioners were sent to Mississippi to treat with them and to obtain, if possible, their removal to their lands west. Accordingly the treaty of September 27, 1830, was negotiated. On behalf of the United States John H. Eaton and John Coffee were appointed commissioners, and they were instructed to proceed to Mississippi for the purpose of entering into a treaty with the Choctaws. On the 18th day of September, 1830, the said commissioners met the chiefs and headmen of the Choctaws and delivered to them a "talk," as it is called in the journal of the commissioners. This talk was for the purpose of inducing the Indians to enter into negotiations with the commissioners, and as showing the representations made to the Indians will be here quoted. The material parts of it are as follows:

> By direction of your great father we have come amongst you. It is not your lands we seek, but your happiness. If you remain you will be subject to the jurisdiction of courts, pay taxes, etc., and if you are satisfied that in such a condition you would be unhappy, then agree to remove beyond the Mississippi, where you will be able to live under your own laws. Record the votes of your headmen and let us know who is willing to move and who are opposed. In 1820, by a treaty, a fine country was given you for the use of your people. It was the understanding at that time that the Choctaws would remove. Ten years are passed and you are still here. If you prefer to live here, surrender the lands west or otherwise remove to them. Hereafter we will not treat with you. (21 C. Cls. Rep., p. 61.)

Even to the untutored mind of the Indian this language could not be misunderstood. There was presented the alternative of remaining in Mississippi, forfeiting the lands which they had acquired by solemn compact in the West, becoming subject to the white man's laws, to the jurisdiction of his courts and to taxation, or leaving their homes in Mississippi and removing to their territory in the West.

The Choctaws were surprised at the proposition and representations of the commissioners in regard to the forfeiture by them of their lands in the West if they did not remove to them, as no such condition had been placed in the treaty of 1820, and at first refused to treat with the commissioners of the United States. The commissioners thereupon threatened to withdraw and no longer treat with them, and a few days later the Choctaws, being fearful of the consequences of their refusal, presented certain proposals for a treaty of their own accord. They agreed that their people would

remove to their lands west of the Mississippi, but demanded that those who had improvements in Mississippi and were willing to remove should be granted certain reservations, the amount of the reserve being dependent upon the acreage under cultivation, and insisted that those who desired to remain should also be taken care of, with the understanding that they should become citizens of the State in which they resided and thereby subject to all the laws of said State. That part of their proposal bearing on this subject is as follows:

> Also, such persons wishing to become citizens, and who are heads of families, shall be entitled, for himself or herself, to a section of land; and having lived upon and cultivated the same for six years after the ratification of this treaty, shall receive a grant in fee; the location shall be bounded by sectional lines and include his or her dwelling. (21 C. Cls. Rep., p. 63.)

The treaty was finally concluded on September 27, 1830, and the proposals of the Choctaws were in a measure adopted. Two classes of reservations were provided for by the treaty. Article 14, under which the Mississippi Choctaw claim arises, is as follows:

> ART. 14. Each Choctaw head of a family being desirous to remain and become a citizen of the States shall be permitted to do so by signifying his intention to the agent within six months from the ratification of this treaty, and he or she shall thereupon be entitled to a reservation of one section of 640 acres of land, to be bounded by sectional lines of survey; in like manner shall be entitled to one-half that quantity for each unmarried child which is living with him over 10 years of age, and a quarter section to such child as may be under 10 years of age, to adjoin the location of the parent. If they reside upon said lands, intending to become citizens of the States, for five years after the ratification of this treaty, in that case a grant in fee simple shall issue; said reservation shall include the present improvement of the head of the family, or a portion of it. Persons who claim under this article shall not lose the privilege of a Choctaw citizen, but if they ever remove are not to be entitled to any portion of the Choctaw annuity. (7 Stat. L., 335.)

This article provides for those who desired to remain and become citizens of the States. Article 19 provides for reservations to those who intended to remove and had improvements in Mississippi.

The treaty was not ratified until February 24, 1831, and on May 21, 1831, the War Department, then having charge of the Indian affairs, advised Col. Ward, Indian agent in Mississippi, to open a register of claims under the fourteenth article and another list for those Indians claiming under the nineteenth article. Ward advised the department on June 31, 1831, that he had opened such registers and was receiving the claims of the Indians.

The history of these transactions shows clearly that the authorities of the United States as well as the State authorities of Mississippi did all in their power to get the Indians to move and discouraged as much as possible registrations under the fourteenth article. The six months provided by the treaty within which the Indians could signify their intention to remove expired on August 24, 1831, and the records kept by Col. Ward show that comparatively few Indians were registered by him as being desirous of remaining in the State. It was afterwards charged, however, that the Indians had not been fairly dealt with, and that many of those who appeared before Ward for the purpose of registering under the fourteenth article were turned away without their names being listed. Accordingly, by acts of Congress approved March 3, 1837, and February 22, 1838 (see Appendix No. 1), commissioners were appointed for the purpose of proceeding

to Mississippi and investigating the complaints lodged against the conduct of Ward.

By the year 1838 a greater part of the Choctaw Tribe had removed west of the Mississippi River. In the report of the Commissioner of Indian Affairs dated December 1, 1836, it is stated that the whole number of Choctaw Indians in Mississippi at the date of the treaty of 1830 amounted to 18,500 persons, and he estimated that 15,000 of these had emigrated to Indian Territory at the date of his report. In the report of the Commissioner of Indian Affairs dated November 1, 1838, he shows that 177 Indians had emigrated since his report of 1836, making the total number who had removed to Indian Territory amount to 15,177 by November 1, 1838.

In the report of F. W. Armstrong, special agent, submitted in 1834, and found in American State Papers, volume 7, at page 139, the whole number of Choctaws in Mississippi in 1830 is given as 19,209. The commissioners who went to Mississippi under the acts of 1837 and 1838 reported that there were yet remaining in Mississippi on the 31st day of July, 1838, about 5,000 Choctaw Indians. So from these figures it is probable that the enumeration of Special Agent Armstrong is more nearly correct than that contained in the report of the Commissioner of Indian Affairs above referred to, and that in the year 1838 about 5,000 still remained in Mississippi.

In spite of the fact that so many Indians were still in Mississippi, and that probably many of them were fourteenth article claimants, patents were issued under the fourteenth article to only 143 heads of families. The total number of persons to whom patents were issued, including the children, amounted to 276. To afford relief to the large number of Indians who had been denied their rights under the fourteenth article, by act of Congress approved August 23, 1842 (5 Stat. L., 513), a new commission was appointed to proceed to Mississippi and adjudicate the claims of all Choctaw Indians who yet remained there and claimed that they had been deprived of their rights under the fourteenth article by reason of the arbitrary action of the agents of the United States. (See Appendix No. 2.)

The number of heads of families who established their rights under the act of 1842 is 1,155, the total number of persons whose claims were thus favorably adjudicated, including the children, amounted to about 4,000. In House of Representatives Document No. 898, Sixty-first Congress, second session, is given a list of the patentees under the fourteenth article and a list of those persons whose claims were favorably adjudicated under the act of August 23, 1842. This latter class, under the terms of the act referred to, were to receive scrip in lieu of the land to which they would have been entitled as fourteenth article beneficiaries. This scrip entitled the holder to take up unoccupied public domain in the States of Mississippi, Arkansas, Alabama, and Louisiana equal in quantity to the amount of land the holder thereof would have been entitled to under the fourteenth article, not exceeding one half of the same to be issued to the claimant in Mississippi and the other half to be issued upon his removal west of the Mississippi River. Many of the Indians still remaining in Mississippi, as shown by the report of the commissioner in 1838, emigrated to the Choctaw Nation west between that year and the year 1855. There are on file in the office of the Commissioner of Indian Affairs muster rolls of emigrating Choctaws which show that during

the period stated—that is, from 1838 to 1855—more than 3,400 Choctaws removed to the Indian Territory. It will thus be seen that, taking the figures of the Commissioner of Indian Affairs to the effect that 15,000 Choctaws had emigrated prior to 1836, the total number of Choctaws who were in Indian Territory at the date of the treaty of 1855 was over 18,500, leaving in Mississippi not more than 1,000 of the original members of the nation.

The first half of the scrip was delivered to those persons found entitled thereto under the act of 1842, or to their representatives, within a few years after the adjudication of their claims. However, by act of Congress of March 3, 1845 (5 Stat. L., 777), it was provided that the balance of the scrip, being the second half of the payment, should not be paid to the Indians, but that it should be capitalized at $1.25 per acre and the interest accruing thereon, at the rate of 5 per cent per annum, should be paid to the Indians or their representatives. This was done, and no change took place in the law until July 21, 1852, when by act of Congress approved that day (10 Stat. L., p. 19) it was provided that the amount yet due these Indians in scrip under the original act should be paid to them in money instead of scrip, and the sum of $872,000, which was the value of the scrip undelivered, by estimating the land at $1.25 per acre, should be paid to the Choctaws in cash. (See Appendix No. 3.)

It has been intimated in the arguments submitted on this bill that this money did not reach the hands of the persons for whom it was intended, but that it was paid out to the Choctaw Nation in Indian Territory. The records relative to this payment are easy of access. They are found in the office of the Commissioner of Indian Affairs and the Auditor for the Interior Department, and show that the sum of $872,000 was delivered by the Government to Philip H. Raiford, Indian agent, under date of September 11, 1852. Agent Raiford, in the month of November, 1852, turned this money over to Indian Agent John Drennen, and in the same month Drennen turned the money over, by requisition, to William Wilson, Indian agent, who paid out the greater part of same to the persons entitled thereto under the award made by the commission appointed under the act of 1842. Wilson's accounts are a matter of record in the auditor's office and show that prior to June 4, 1853, he paid out of this money to individual claimants, under article 14, $686,300 principal and $36,530.63 interest. This money was paid to 2,983 persons, whose names appear on his pay roll.

Wilson turned over the balance of the money in his hands to Douglas H. Cooper, agent to the Choctaws, in June, 1853, and Cooper's accounts on file in the same place show that by August, 1854, he had paid out $59,533.94 of this money to 300 individual claimants. The accounts of Cooper for the last two quarters of 1854 and the first quarter of 1855 can not be found, but it is presumed the balance of this money was paid out to individual claimants in the same manner.

It is impracticable in this brief to give a list of all the persons to whom this money was paid. However, it can be stated that we have compared a number of the names on these pay rolls with the list of scripees and find that the persons to whom this money was paid are persons whom the commission of 1842 found entitled to scrip under the terms of said act, they being fourteenth-article beneficiaries or their descendants.

There was probably very little emigration from Mississippi to Indian Territory from 1855 until after the Civil War. However, a study of the Choctaw law books will show that there was a continuous emigration of small parties from Mississippi and Louisiana to Indian Territory from 1866 until the Government of the United States took over the affairs of the Choctaw Nation and prohibited the nation from any further admissions to citizenship. These books contain numerous acts admitting to full rights and privileges of citizenship persons emigrating from Mississippi to Indian Territory during these years. A few of these acts are hereto appended, which will show that they have not only received the emigrating Choctaws into full rights of citizenship, but in many cases appropriated money out of their national funds to pay the expenses of their emigration and to assist them in subsisting in the nation until they could become self-supporting. (See Appendix No. 4.)

On at least one occasion, in the year 1889, the Choctaw Council memorialized Congress to assist in the emigration of the Choctaws in the States of Mississippi and Louisiana to the Choctaw Nation, and on another occasion, in the year 1891, by act of the Choctaw Council a commission was appointed to proceed to Mississippi and take what steps seemed advisable in order to obtain the affiliation of the Eastern Choctaws with the main body of the tribe in the West and the emigration of the former to Indian Territory. A large number of such Indians were emigrated by reason of the activities of the commission.

This is the history, in brief, of the Mississippi Choctaws up until 1896, when the United States took charge of the enrollment affairs of the Choctaw and Chickasaw Nations and undertook to allot their lands in severalty.

That the Choctaw Indians who had voluntarily separated themselves from the tribal government and citizenship were not entitled to share in that government or the distribution of the tribal property while residing outside of the jurisdiction of the Nation seems never to have been questioned until within recent years. An examination of the provisions of the treaty of 1830, and the history relative to the making of that treaty, shows conclusively that the principal object of the treaty was the removal of the Choctaw Indians from Mississippi to their lands in the West. In the treaty of 1820, under which the Choctaws acquired title to their western domain, there was no limitation imposed requiring them to live upon the land. In spite of this fact, such a limitation was placed in the treaty of 1830, and they were compelled to agree to remove beyond the Mississippi as early as practicable after the ratification of said treaty. These provisions contained in the treaty are as follows:

ARTICLE 2. The United States, under a grant specially to be made by the President of the United States, shall cause to be conveyed to the Choctaw Nation a tract of country west of the Mississippi River, in fee simple to them and their descendants, to inure to them while they shall exist as a nation and live on it.

Here follows a description of a part of the land ceded by the treaty of 1820.

Article 3 of said treaty is as follows:

In consideration of the provisions contained in the several articles of this treaty, the Choctaw Nation of Indians consent and hereby cede to the United States the entire country they own and possess east of the Mississippi River;

and they agree to remove beyond the Mississippi River early as practicable, and will so arrange their removal that as many as possible of their people, not exceeding one-half of the whole number, shall depart during the falls of 1831 and 1832, the residue to follow during the succeeding fall of 1833; a better opportunity in this manner will be afforded the Government to extend to them the facilities and comforts which it is desirable should be extended in conveying them to their new homes.

This enforced removal of the Choctaws as a nation to the West was not agreed to by them until article 14 was placed in the treaty, which permitted Choctaw Indians who desired to renounce their Choctaw citizenship to remain in the States and become citizens thereof. That this was the purpose of the fourteenth article is shown by all of the available records bearing upon the drawing up of this treaty. The Choctaws themselves proposed this provision, and it was incorporated in the treaty for the express purpose of permitting Choctaw Indians who desired to do so to become citizens of the States and as such to have a reservation of land set apart to them in the State of Mississippi.

The only part of that article which is in any way subject to dispute is the last sentence thereof.

The Indians had been threatened by the commissioners of the United States with the forfeiture of their lands in the West which they had bought and paid for unless they speedily removed thereto and took up their homes thereon. They were told that if they remained in Mississippi they would be subjected to the jurisdiction of the government of the State, and that their lands and other property would be taxed. There is no doubt but that those who elected to remain knew they were renouncing their Choctaw citizenship and were becoming citizens of the State in which they took up their residence. The last sentence of said article, therefore, was inserted with the idea that those who remained in the States and took up their citizenship therein would be guaranteed the privilege of removing to their nation if conditions became too harsh for them in the States, and upon such removal were to be entitled to all the privileges of a Choctaw citizen, except the right to share in the annuities.

This construction is well set forth in the decision rendered in the United States court for the central district of Indian Territory in the year 1897, in the case of Jack Amos et al. *v.* The Choctaw Nation. (See report of Commission to the Five Civilized Tribes of June 30, 1899, p. 92.) In discussing this provision the court states as follows:

> In the third article of the treaty the Choctaws agreed to move all of their people within three years, and the United States intended that they should go. But, by the fourteenth article of the treaty, provisions were made whereby those who should decide to remain and become citizens of the State of Mississippi, in the event that, because of the intolerance and persecutions of the whites which they themselves had so bitterly experienced, or for any other cause, they might become dissatisfied with their altered conditions and their new citizenship and desire to follow them to their new homes, and thereafter exercise with them in their own country the privileges of citizenship, they could do so, except that they were not to participate with them in their annuities, the lands which they were to receive in Mississippi being deemed a compensation for that.
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> When the fourteenth article of the treaty was framed the negotiating parties understood that the policy of the United States was that the Choctaws were to be removed. The Choctaws, in article 3, had just agreed that they should all go. The ink was not yet dry in article 2, whereby the condition was placed in this grant to the lands that they were to live upon them or they should be forfeited, and that no privilege of citizenship could be conferred or enjoyed

outside of the territorial jurisdiction of their newly located nation. Understanding these conditions, the latter clause of article 14 was penned:

"Persons who claim under this article shall not lose the privilege of a Choctaw citizen, but if they ever remove—that is, if they ever place themselves on the land and within the jurisdiction of the nation whereby those privileges may become operative—are not to be entitled to any portion of the Choctaw annuity."

In other words, if they ever remove, they are to enjoy all of the privileges of a Choctaw citizen except that of participating in their annuities. If this be not the meaning to be attached to the word "remove" as used in the clause of the treaty under consideration, it must be meaningless. But in the interpretation of statutes it is the duty of the court to so interpret them as to give to every word a meaning, and in doing so it must take into consideration the whole statute, its objects and purposes, the rights which are intended to be enforced, and the evils intended to be remedied; it may go to the history of the transaction about which the legislation is had and call to its aid all legitimate facts proven or of which the courts will take judicial notice in order to find the true meaning of the word as used in the statute. Of course, the same rule of interpretation applies to treaties. Adopting these rules in the interpretation of article 14 of the treaty of 1830, I arrive at the conclusion that the "privilege of a Choctaw citizen" therein reserved to those Choctaws who shall remain, thereby separating themselves, it may be forever, from their brethren and their nation, becoming citizens of another sovereignty and aliens of their own, situated so that it would be impossible, while in Mississippi, to receive or enjoy any of the rights of Choctaw citizenship, was the right to renounce his allegiance to the Commonwealth of Mississippi, move upon the lands conveyed to him and his people, and there, the only spot on earth where he could do so, renew his relations with his people and enjoy all of the privileges of a Choctaw citizen except to participate in the annuities.

As an evidence that the Choctaw people themselves took this view of the question, attention is called to the fact that their council has passed many acts and resolutions inviting these absent Choctaws to move into their country, and on one occasion appropriated a considerable sum of money to assist them on their journey; and, until the past two or three years, have always promptly placed those who did return on the rolls of citizenship, but never enrolled an absent Choctaw as a citizen.

That this is the intent and meaning of article 14 is further indicated by the treaty of 1866, entered into between the United States and the Choctaw and Chickasaw Nations. Under this treaty a scheme was provided for the allotment of the lands belonging to these two nations in severalty to the members thereof. The lands were first to be surveyed, and thereafter a specified time was given for the citizens to select their allotment so as to include their improvements. Notice of the rights of the citizens was to be given wide publicity, and by article 13 of said treaty it is provided:

The notice required in the above article shall be given not only in the Choctaw and Chickasaw Nations but by publication in newspapers printed in the States of Mississippi and Tennessee, Louisiana, Texas, Arkansas, and Alabama, to the end that such Choctaws and Chickasaws as yet remain outside of the Choctaw and Chickasaw Nations may be informed and have opportunity to exercise the rights hereby given to resident Choctaws and Chickasaws: *Provided*, That before any such absent Choctaw or Chickasaw shall be permitted to select for himself or herself or others, as hereinafter provided, he or she shall satisfy the register of the land office of his or her intention, or the intention of the party for whom selection is to be made, to become bona fide resident in the said nation within five years from the time of selection; and should the said absentee fail to remove into said nation and occupy and commence an improvement on the land selected within the time aforesaid the said selection shall be canceled and the land shall thereafter be discharged from all claim on account thereof.

The patent evidencing the title of the Choctaws to their western lands was executed by the President on March 23, 1842, and in this patent the same limitations found in the treaty of 1830 were inserted,

providing for a possibility of reversion in the United States. This provision in the patent is as follows:

> That the United States of America, in consideration of the premises and in execution of the agreement and stipulation in the aforesaid treaty, have given and granted and by these presents do give and grant unto the said Choctaw Nation the aforesaid "tract of country west of the Mississippi," to have and to hold the same, with all the rights, privileges, immunities, and appurtenances of whatsoever nature thereunto belonging, as intended "to be conveyed" by the aforesaid article, "in fee simple to them and their descendants, to inure them, while they shall exist as a nation and live on it," liable to no transfer or alienations, except to the United States or with their consent.

This constitutes a base or determinable fee, and it is inconsistent with the manner in which the title to this land was held that the Indians who renounced their Choctaw citizenship and refused to continue their identification with the nation and share the responsibilities and burdens of citizenship should be entitled to share in its benefits. No one has ever objected to the Absentee Choctaws reidentifying themselves with the nation and being readmitted to the benefits of citizenship, and, on the other hand, they have been requested and urged to return to the fold on every occasion. But objection has been raised to the extension of these benefits to them while they remain apart from the nation.

A somewhat analogous question was decided by the Supreme Court in the case of the Eastern Band of Cherokees *v.* The United States (117 U. S., 288). This case had to do with the rights of the Absentee or Eastern Band of Cherokees to share in the distribution of the property and funds of the Cherokee Nation in Indian Territory. The court, after reviewing the treaties relating to the same, concluded by saying:

> If Indians in that State (North Carolina), or in any other State east of the Mississippi wish to enjoy the benefits of the common property of the Cherokee Nation, in whatever form it may exist, they must, as held by the Court of Claims, comply with the constitution and laws of the Cherokee Nation, and be readmitted to citizenship as there provided. They can not live out of its territory, evade the obligations and burdens of citizenship, and at the same time enjoy the benefits of the funds and common property of the nation. Those funds and that property were dedicated by the constitution of the Cherokees and were intended by the treaties with the United States for the benefit of the united nation, and not in any respect for those who had separated from it and become aliens to their nation. We can see no just ground on which the claim of the petitioners can rest in either of the funds held by the United States in trust for the Cherokee Nation.

It may be said that in the Cherokee treaties there is no provision similar to the last sentence of the fourteenth article of the treaty of 1830. It is true there is no provision exactly similar to this clause, but if the construction which we believe is the proper construction to be given to this clause is adopted, that fact does not in any way destroy the similarity between the cases of the Absentee Cherokees and the Absentee Choctaws, for the real intention of the last clause of the fourteenth article was undoubtedly to guarantee to the absent Choctaws that if they ever desired to move, upon doing so, they would be entitled to all the privileges of a Choctaw citizen except a share of the annuities. This has been the meaning given to this treaty by every court or tribunal which has ever passed upon it.

In the case of Jack Amos et al. *v.* The Choctaw Nation, supra, the court further says:

> I am disposed to the opinion, however, and will so hold, that the descendants of the Mississippi Choctaws by virtue of the fourteenth article of the treaty of 1830 are entitled to all of the rights of Choctaw citizenship, with all of the privileges and property rights incident thereto, provided they have renounced their allegiance to the sovereignty of Mississippi by moving into the Choctaw Nation in good faith to live upon their lands, renewing their allegiance to that nation, and putting themselves in an attitude whereby they will be able to share in the burdens of their government. The reason for this conclusion is, to my mind, made morally certain when it is remembered that ever since the treaty of 1830, now for the period for nearly 67 years, with the exception of the past two or three years, the Choctaw Nation by its legislative enactments and by its acts so long continued that by custom they have become crystallized into law have universally admitted all who should remove to this country and rehabilitate them in all of the rights and privileges of citizenship enjoyed by themselves.

In the arguments recently made on this question a resolution of the Choctaw Council has been referred to, and an attempt has been made to draw the inference therefrom that the Choctaw Nation officially recognized that the Choctaws in the States of Mississippi and Louisiana were entitled to all the rights and privileges of citizenship without removal.

This resolution was passed on December 24, 1889, and is as follows:

> Whereas there are large numbers of Choctaws yet in the States of Mississippi and Louisiana who are entitled to all the rights and privileges of citizenship in the Choctaw Nation; and
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> Whereas they are denied all rights of citizenship in said States; and
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> Whereas they are too poor to immigrate themselves into the Choctaw Nation: Therefore
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> *Be it resolved by the General Council of the Choctaw Nation assembled*, That the United States Government is hereby requested to make provisions for the emigration of said Choctaws from said States to the Choctaw Nation, etc.

If, however, this resolution is analyzed, it will be seen that it bears out exactly the contention made by us on this proposition, to wit, that these Indians were guaranteed the rights and privileges of Choctaw citizenship provided they removed to the Choctaw Nation. The language used is not that these Absentee Choctaws are entitled to the rights and privileges of citizenship as Choctaws in the States named, but that they are entitled to those rights in the Choctaw Nation, and the evident intention of the Choctaw authorities was that the United States should assist these absentee Indians in acquiring their rights by their removal to the Choctaw Nation. The meaning of this resolution, to paraphrase its language, is this:

Whereas there are a large number of Choctaws in the States of Mississippi and Louisiana who, although electing to become citizens of those States, are denied all rights of citizenship in said States, and

Whereas they are entitled to the rights and privileges of citizenship by removing to and identifying themselves with the Choctaw Nation, and

Whereas they are too poor to immigrate themselves into the Choctaw Nation, therefore be it resolved, etc.

This construction is borne out by the fact that every Mississippi Choctaw who emigrated into the Choctaw Nation after its passage was required to make formal application to the council and be admitted to citizenship before he was allowed to participate in the

government of the nation or share in any of the benefits of citizenship. If he was already a citizen, why was this requirement made?

Another argument which is used in favor of this legislation is that the Choctaw Nation by its proper authorities executed and delivered to the United States an agreement to the effect that the payment of the $872,000, to take up the second half of the scrip due to fourteenth article claimants under the act of August 23, 1842, would be received as a final payment and satisfaction of said awards, and that by such agreement the Choctaw Nation became responsible to the claimants for the settlement of their individual claims. This act of the Choctaw Council, which was passed on November 6, 1852, is as follows:

Whereas by an act of Congress entitled "An act to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th day of June, 1852," all payments of interest in the amount awarded Choctaw claimants under the fourteenth article of the treaty of Dancing Rabbit Creek for lands on which they resided, but which it is impossible to give them, shall cease, and that the Secretary of the Interior be directed to pay said claimants the amount of the principal awards in each case, respectively, and that an amount necessary for this purpose be appropriated not exceeding the sum of $872,000; and that final payment and satisfaction of said awards shall be first ratified and approved as a final release of all claims of such parties under the fourteenth article of said treaty by the proper national authority of the Choctaws in such form as shall be prescribed by the Secretary of the Interior: Now be it known that the said General Council of the Choctaw Nation do hereby ratify and approve the final payment and satisfaction of said awards agreeably to the provisions of the act aforesaid as a final release of the claims of such parties under the fourteenth article of said treaty.

A. Nail, *Speaker.*

November 6, 1852, passed in the senate.
Approved:

D. McCoy, *President.*
George W. Harkins.
George Folsom.

This act was passed by the Choctaw Council to comply with the proviso contained in the act of July 21, 1852, whereby this money was appropriated. This proviso is as follows:

That the final payment and satisfaction of said awards shall be first ratified and approved as a final release of all claims of such parties under the fourteenth article of said treaty by the proper national authority of the Choctaws in such form as shall be prescribed by the Secretary of the Interior.

The only national or tribal government of the Choctaw Indians at that time was the government in the Choctaw Nation west of the Mississippi, and this government was the only government to enter into such an agreement with the United States. This action, therefore, was taken by the Choctaw authorities in pursuance of said act of Congress, and evidently in form as "prescribed by the Secretary of the Interior."

It has heretofore been shown, however, that the money here appropriated was not paid to the Choctaw Nation, but was paid to the individual claimants under the act of 1842 by an officer of the United States Government. Surely the Choctaw Nation can not be held accountable for this payment, since they had no hand in making it, nor was it possible for them to bind by this or any other agreement anyone but their own citizens. It would naturally be presumed that the United States, whose authorities made the payment, would see

that the Mississippi Choctaws, who were not subject to the jurisdiction of the Choctaw Nation, but were citizens of the United States and the State in which they resided, were protected in this payment.

Even though the Choctaw Nation did by this act release the United States from the claims of the Mississippi Choctaw Indians under the fourteenth article of the treaty of 1830, this fact (which we do not admit) would not have any bearing upon the question under discussion. In determining this question, let us see just what claims were covered by the payment of the $872,000 provided for by the act of July 21, 1852. It was to take up the claims of those persons whose rights had been favorably adjudicated by the act of August 23, 1842. The purpose of this latter act was to adjudicate the claims of Indians to reservations of land in Mississippi under the fourteenth and nineteenth articles of the treaty of 1830. For some reason no nineteenth-article claims were considered by the commission appointed under said act, and the only claims which were received and considered were those arising under the fourteenth article. This commission, as has heretofore been shown, received and favorably adjudicated the claims of over 4,000 persons to reservations in the State of Mississippi. Scrip was issued to these persons, which permitted the taking up of any public domain in the States of Alabama, Mississippi, Louisiana, and Arkansas equal to half of the land to which claimant would have been entitled under the fourteenth article. The $872,000 was appropriated to reimburse the claimants for the second half of the scrip, which had never been issued. Thus, if the Choctaw Nation had assumed the liabilities of the United States in favor of the fourteenth-article claimants, it was only a guaranty to the United States that the claimants would receive the second half of the payment of scrip in money instead of land, and in no manner changed the relation of the Mississippi Choctaw Indians to the Choctaw Nation in respect to the domain of the Choctaws in the West.

This $872,000 was not paid out by the United States to the whole body of Choctaws, but was paid out to those individuals or their heirs or representatives who had received a favorable adjudication of their claims by the commission appointed under the act of 1842.

A careful reading of the act of the Choctaw Council of November 6, 1852, will show that all the Nation agreed to by said act was to—

> ratify and approve the final payment and satisfaction of said awards agreeably to the provisions of the act aforesaid (act of July 21, 1852) as a final release of the claims of such parties under the fourteenth article of said treaty.

If any of the claimants were not paid their share of the $872,000 the Choctaw Nation in no way assumed liability therefor. The fund was in the hands of the United States for disbursement, and all that the Choctaw Nation agreed to was that the final payment and satisfaction of said awards would act as a release of the claims of such parties.

But the Supreme Court of the United States has passed upon the effect of this release of the Choctaw Nation in the case of the Choctaw Nation *v.* United States (119 U. S., 30), wherein it says:

> That act of Congress, it is true, declares that the final payment and satisfaction of the sum thereby appropriated and paid should, when ratified and approved by the proper national authority of the Choctaws, operate as a final release of all claims of those to whom such payments are made under the fourteenth article of the treaty of September 27, 1830. But whether that pay-

ment was a just and fair extinguishment of those claims, according to the terms of that treaty, was one of the very questions in dispute. And it is not unreasonable to contend, as it is contended on behalf of the Choctaw Nation, that the effect of that release should be considered in view of the circumstance under which it was executed and in reference to which the Court of Claims has found, in the sixteenth finding, that "the claimants under the fourteenth article, the said Choctaw heads of families and their children, were reduced to a helpless condition of want, which rendered it practically impossible for them to contend with the United States in their requirement that the said Choctaw heads of families should accept and receive the scrip provided to be issued to them in lieu of the reservations by the act of 1842; and the said scrip and the money paid to redeem the same were taken and accepted because they were powerless to enforce any demands against or impose any conditions upon the United States."

It is also contended that many of the claims of individual Indians under the fourteenth article of the treaty of 1830 entered into the so-called "net-proceeds" claims, and that the money obtained to satisfy the judgment rendered in that case was paid to the Choctaw Nation and not to the individual claimants.

Let us examine the history of this case briefly: It is an undisputed fact that the United States Government did not perform the obligations assumed by it under the terms of the treaty of 1830. By the treaty of 1855, which was entered into between the United States and the Choctaw and Chickasaw Nations, provision was made for the submission of the claims of the Choctaws against the United States, arising out of the treaty provisions, to the Senate of the United States as a court to arbitrate and determine what amount, if any, was due to the Indians. This provision is contained in article 11 of said treaty, and is as follows:

> The Government of the United States, not being prepared to assent to the claim set up under the treaty of September 27, 1830, and so earnestly contended for by the Choctaws as a rule of settlement, but justly appreciating the sacrifices, faithful services, and general conduct of the Choctaw people, and being desirous that their rights and claims against the United States shall receive a just, fair, and liberal consideration; it is therefore stipulated that the following questions be submitted for adjudication to the Senate of the United States:
>
> First. Whether the Choctaws are entitled to or shall be allowed the proceeds of the sale of the lands ceded by them to the United States by the treaty of September 27, 1830, deducting therefrom the cost of their survey and sale, and all just and proper expenditures and payments under the provisions of said treaty; and, if so, what price per acre shall be allowed to the Choctaws to the lands remaining unsold, in order that a final settlement with them may be promptly effected; or
>
> Second. Whether the Choctaws shall be allowed a gross sum in further and full satisfaction of all their claims, national and individual, against the United States; and, if so, how much.

By article 12 of said treaty it was provided that in case an award was made by the Senate to the Choctaws the same would be received by them in full satisfaction of all their claims against the United States, whether national or individual, arising under any former treaty, the Choctaws thereupon agreeing to become liable to pay all individual claims as might be adjudged by the proper authorities of the tribe to be equitable and just.

The claims provided for by this provision of the treaty of 1855 must not be confused with the claims provided for by the act of Congress July 21, 1852. There were many unsettled points of dispute between the Choctaws and the United States at the time of the ratification of the treaty of 1855, involving claims arising under several old treaties, including the treaty of 1830. These disputes were to be

settled by this provision of the treaty of 1855. The claims arisin under the act of July 21, 1852, had their basis in the awards made b the commission acting under the act of Congress of August 23, 184 and the $872,000 appropriated by said act was for the payment t claimants of the second half of the scrip found due by said com mission.

The conclusion reached by the Senate is contained in a resolutio of March 9, 1859, providing that the Choctaws should be allowed th proceeds of the sale of their lands in Mississippi disposed of prior t January 1, 1859, deducting therefrom all proper expenditures fo costs of the survey and sale of the same, deducting reservations an estimating scrip at $1.25 per acre and allowing them 12½ cents pe acre for the residue unsold. The Secretary of the Interior was aske to cause an account to be stated under this award and report sam to Congress.

On May 8, 1860, the Secretary reported the amount due th Choctaws under this award to be $2,981,247.30. The sum of $250,00 is all that was ever paid under this award, and the Civil War break ing out soon after it was made no more money was appropriated t pay the same, probably by reason of the unsettled condition of th country at that time. Several years having elapsed and no settle ment having been effected, the matter was by act of Congress ap proved March 3, 1881, referred to the Court of Claims for determina tion. This act is as follows:

AN ACT For the ascertainment of the amount due the Choctaw Nation.

Whereas the Choctaw Nation, for itself and on behalf of individual members thereof, makes claim against the United States on account of various treaty provisions which it is alleged have not been complied with: Therefore

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That the Court of Claims is hereby authorized to take jurisdiction of and try all questions of differences arising out of treaty stipulations with the Choctaw Nation and to render judgment thereon: power is hereby granted the said court to review the entire question of differences de novo, and it shall not be estopped by any action had or award made by the Senate of the United States in pursuance of the treaty of 1855; and the Attorney General is hereby directed to appear in behalf of the Government; and if said court shall decide against the United States the Attorney General shall, within 30 days from the rendition of judgment, appeal the cause to the Supreme Court of the United States; and from any judgment that may be rendered the said Choctaw Nation may also appeal to said Supreme Court: *Provided*, The appeal of the said Choctaw Nation shall be taken within 60 days after the rendition of said judgment, and the said courts shall give such cause precedence.

SEC. 2. Said action shall be commenced by a petition stating the facts on which said nation claims to recover and the amount of its claim; and said petition may be verified by either of the authorized delegates of said nation as to the existence of such facts, and no other statements need be contained in said petition or verification.

The Court of Claims, after a full and voluminous record had been presented in the case, decided that under the peculiar provisions of the act giving them jurisdiction—

The sanctity of the adjudication of the Senate has been destroyed by the law of our jurisdiction, and that the parties are remitted to their legal rights as they exist unaffected by the action of the Senate—

and they proceeded to a trial of the claims de novo and found that the amount due the Choctaw Indians amounted to $658,120.32.

In this award the right of the Choctaws to the net proceeds derived from the sale of their lands in the State of Mississippi was denied, but there was included for claimants under the fourteenth article of the treaty of 1830, $417,656, which represented the claims of 191 families whose rights were defeated under the provisions of the act of 1842, and who the court held were entitled to 225,760 acres of land. These 191 claims were denied under the act of 1842 by reason of the peculiar wording of the act, requiring the claimant to have had improvements in the Choctaw Nation in Mississippi on September 27, 1830, and to have resided upon the land covered by the same for five years thereafter. This case is reported in volume 21, Court of Claims report, page 59.

An appeal was taken from this judgment by both parties to the Supreme Court of the United States, and it was there determined that the amount due the Choctaw Indians was $2,858,798.62. The Supreme Court arrived at this judgment by going back to the award of the Senate made under the treaty of 1855, and in rendering its decision uses the following language, which will show how the amount of the award was arrived at by the Secretary of the Interior, who stated the account for the Senate under Senate resolution of March 9, 1859, to wit:

> The Secretary of the Interior found to be due the Choctaw Nation, in his statement of account in conformity with the resolutions and decision of the Senate under the treaty of 1855, the sum of $2,981,247.30. This balance was reached by crediting them with the proceeds of the sales of the lands ceded by them under the treaty of September 27, 1830, made up to January 1, 1859, adding for the unsold residue of said lands their estimated value at 12½ cents per acre, amounting to $8,078,614.80 in the aggregate. Against this deductions were charged as follows: First, the cost of the survey and sale of the lands at 10 cents an acre; and, second, payments and expenditures under the treaty; the whole amounting to $5,097,367.50, resulting in the balance above stated. * * * The result, therefore, is to establish the balance found by the Secretary of the Interior as the true amount due, ascertained according to the principle adjudged by the Senate in its award, and which we have declared to be the equitable rule of settlement between the parties. From this is to be deducted the payment of $250,000 made under the act of March 2, 1861.

There was added to this amount $59,449.32 for unpaid annuities and $68,102 for lands taken in fixing the boundary between the State of Arkansas and the Choctaw Nation, making the total amount of the award of the Supreme Court amount to $2,858,798.62, and to this there was added the sum of $219,696.71 interest which had accrued from the time of the rendition of the judgment up until the appropriation was made by Congress for the payment of the same.

From an examination of the decision of the Supreme Court on this case, it does not appear that a single individual claim of a fourteenth article benificiary entered into or was adjudicated in this case.

Under the provisions of the treaty of 1855 this award was to be paid by the United States in full satisfaction for all claims, individual and national, arising under the treaties between the United States and the Choctaw Nation. The amount appropriated to pay this award was turned over to the Choctaw tribal authorities and distributed under their direction by an official of the United States Government.

A reference to the laws of the Choctaw Nation will show that every effort was made by the tribal authorities to ascertain who were

entitled to share in said award and ample opportunity was given the individual claimants to appear and assert their rights. By act of the Choctaw Council, approved October 31, 1859, which was a short time after the award was made by the Senate, a court of claims was established to hear and determine the claims of all persons to share in this award. This court was organized and held regular sessions, but its sittings were discontinued by the breaking out of the Civil War. Thereafter, under act of the general council of the Choctaw Nation, approved in 1872 and 1875, the court was reestablished and machinery was provided for the adjudication of all individual claims. This court heard and allowed claims of this character to the amount of $825,000, and by act of the Choctaw Council of November 6, 1888, provision was made for the payment of these claims. The acts of October 21, 1859, and of November 6, 1888, are hereto attached, marked Appendix No. 5. A copy of the acts of 1872 and 1875 can not be obtained, but their purport is shown by reference thereto in the act of 1888.

It will thus be seen that the Choctaw Nation in receiving this money and undertaking to settle all claims arising under the treaty of 1830 and properly chargeable against the moneys received from said award, made every effort to ascertain to whom the award was due, and paid out the money to the original claimants or their heirs or representatives, if they were dead, under the supervision of the United States authorities.

It has been argued by those in favor of this bill that not one cent of this award was paid to the Choctaw Indians in Mississippi. Whether or not this is true, we are not prepared to say. We have, however, already shown that 3,400 of the fourteenth-article claimants emigrated to Indian Territory between the years 1838 and 1855, and that many more of them emigrated west from the close of the Civil War to the year 1896. It is undoubtedly true that at the time this award was paid, which was in the year 1889, at least 80 per cent of the original fourteenth-article claimants or their descendants had removed to Indian Territory. If those who still remained in Mississippi at that date made no claim to this money, and received no part thereof, it was not the fault of the Choctaw Nation, which provided ample machinery for the determination of individual claims included in this award. The fact that the Mississippi Indians did not participate or attempt to participate in that part of the award which covered the net proceeds derived from the sale of the Choctaw tribal lands in Mississippi is referred to by the court in the Amos case as a strong argument against their right to participate in the distribution of the tribal property of the Choctaws in the Indian Territory. In any event if the Mississippi Indians have any legal or equitable claims against the Choctaw Nation for any part of the net proceeds judgment, and we think we have shown that they have not, the relief granted them should only be the amount to which they were entitled, with interest, and this could only be determined by a readjudication of their claims. They would in no case be entitled to citizenship in the Choctaw Nation simply because they had failed to get their part of the original judgment.

We will now proceed to a consideration of more recent legislation on this subject. The Commission to the Five Civilized Tribes was created by the act of Congress approved March 3, 1893 (27 Stat. L.,

645), for the purpose of treating with the several nations in the Indian Territory in an endeavor to procure an allotment of the lands of the said nations in severalty to the Indians belonging to each such nation or tribe, to procure agreements with the tribes for this purpose, and to obtain a winding up of the tribal affairs with a view to the ultimate creation of the territory embraced by said tribes into a State of the Union.

By the act of June 10, 1896 (29 Stat. L., 321), the commission was authorized and directed to hear and determine the applications of all persons who might apply to them for citizenship in any of the said nations, and in passing on said applications was instructed to give due force and effect to the rolls, usages, and customs of the tribe in which the applicant claimed citizenship. An appeal was provided for from a decision of the commission on these applications to the United States courts in Indian Territory. Under this legislation the commission received and passed on several thousand applications, among which was that of the Jack Amos Band of Mississippi Choctaws, and out of the commission's decision in their case arose the decision of the United States court in the case of Jack Amos et al. *v.* The Choctaw Nation, which has heretofore been referred to, and in which the court held that Mississippi Choctaw Indians were not entitled to citizenship in the Choctaw Nation or to participate in the distribution of the tribal property of the Choctaw and Chickasaw Indians unless they removed and took up their residence within the boundaries of said nation.

The first mention of the Mississippi Choctaws in this enrollment legislation is found in the act of June 7, 1897 (30 Stat. L., 83), in which appears the following:

> That the commission appointed to negotiate with the Five Civilized Tribes in the Indian Territory shall examine and report to Congress whether the Mississippi Choctaws under their treaties are not entitled to all the rights of Choctaw citizenship, except an interest in the Choctaw annuities.

Under this provision of law the commission proceeded to the State of Mississippi and thoroughly investigated the rights of this class of Indians, and under date of January 28, 1898, submitted a report to Congress wherein the whole question was discussed and the following finding was made:

> It follows, therefore, from this reasoning, as well as from the historical review already recited, that the nature of the title itself, as well as all stipulations concerning it in the treaties between the United States and the Choctaw Nation, that to avail himself of the "privileges of a Choctaw citizen" any person claiming to be a descendant of those Choctaws who were provided for in the fourteenth article of the treaty of 1830 must first show the fact that he is such descendant and has in good faith joined his brethren in the Territory with the intent to become one of the citizens of the nation. Having done so, such person has a right to be enrolled as a Choctaw citizen and to claim all the privileges of such a citizen, except to a share in the annuities. And that otherwise he can not claim as a right the "privilege of a Choctaw citizen."

Under the act of June 28, 1898 (30 Stat. L., 495), which is known as the Curtis Act, the commission was authorized—

> To determine the identity of Choctaw Indians claiming rights in the Choctaw lands under article 14 of the treaty between the United States and the Choctaw Nation concluded September 27, 1830, and to that end may administer oaths, examine witnesses, and perform all other acts necessary thereto, and make report to the Secretary of the Interior.

This act provided for the enrollment of the citizens and freedmen entitled to allotment in the Five Civilized Tribes. But it will be noted that no authority was given for the enrollment of the Mississippi Choctaws, the commission being directed to determine the identity of such Indians claiming rights under the treaty. This act also provided that no person should be enrolled as entitled to an allotment in any of the five tribes unless he had in good faith removed to and settled within the Nation, in which he claimed citizenship, on or before the date of the approval of said act. But a proviso was inserted that this provision should not be construed as militating against any rights or privileges which the Mississippi Choctaws might have under the laws or treaties of the tribes.

Under this authority the commission again proceeded to Mississippi, and numerous hearings were had in that State and the States of Alabama and Louisiana. These hearings were well advertised, and an opportunity was given to everyone who claimed any right as a Mississippi Choctaw Indian to appear before the commission and assert his claim. Under this law a list was made up of Indians claiming rights under the fourteenth article of the treaty of 1830. This list contained the names of 1,923 persons, and has been designated the McKennon roll. But it must be borne in mind that this was not a roll of citizenship, but was prepared under the authority contained in the act of June 28, 1898, which only authorized the commission to determine the identity of Choctaw Indians claiming rights under the treaty of 1830.

The next legislation on this subject is found in the act of May 31, 1900 (31 Stat. L., 221), which is as follows:

> That any Mississippi Choctaw duly identified as such by the United States Commission to the Five Civilized Tribes shall have the right, at any time prior to the approval of the final rolls of the Choctaws and Chickasaws by the Secretary of the Interior, to make settlement within the Choctaw-Chickasaw country, and, on proof of the fact of bona fide settlement, may be enrolled by the said United States commission and by the Secretary of the Interior as Choctaws entitled to allotment: *Provided further*, That all contracts or agreements looking to the sale or incumbrance in any way of the lands to be allotted to said Mississippi Choctaws shall be null and void.

Under this law the commission continued to receive and consider the applications of Mississippi Choctaw Indians.

The next legislation on the subject is found in the act of July 1, 1902 (Stat. L., 641), which is known as the supplemental agreement between the Choctaw and Chickasaw Nations and the United States. It was found in the previous investigation of the commission that many of the Choctaw Indians residing in Mississippi were full bloods, and through ignorance and lack of information as to their family history were unable to prove that they were descendants of persons who had complied or attempted to comply with article 14 of the treaty of 1830. Accordingly, when the supplemental agreement was drawn up, a rule of evidence was established in favor of these persons to the effect that all full-blood Choctaw Indians should be deemed to be Mississippi Choctaws entitled to the benefits of said article, and proof of the fact that they were full bloods was all that was required of them in order to entitle them to the indentification.

It has been charged in the hearings had on the matter that a mixed-blood applicant was compelled under the act to prove that he

or his ancestor had complied with the provisions of the 14th article, and as only 143 heads of families had received patents most of the applicants were cut off from identification by reason of this requirement. This charge is not true. In the identification of applicants under the acts of June 28, 1898, and July 1, 1902, proof that the applicant was a descendant of one of the scripees, of whom we have shown there were more than 4,000, was sufficient to entitle an applicant to identification, and any other proofs which the applicant could submit tending to show that his ancestor had attempted to comply with the 14th article was received and considered in the adjudication of his case. (See Appendix No. 7.)

The report of the Commissioner to the Five Civilized Tribes for the year ending June 30, 1907, shows on page 12 that 24,634 persons applied to the commission for identification as Mississippi Choctaws under the act of June 28, 1898, and of July 1, 1902. Applications were received from all over the United States, and the record made up in these cases shows that in the large majority of the same the prsons were basing their right to enrollment simply on the fact that they had some Indian blood in their veins, in most cases the amount claimed being very small. Every opportunity was given to the applicants to prove their claim. These records, which are now on file in the Department of the Interior, are the most voluminous of all the enrollment records passed upon by the commission and the department, and in many cases rehearings were granted two or three times, and the decisions were held open for a period of four or five years, in order to give the applicants every opportunity to prove their contention.

Under this legislation the total number identified was 2,534, and by the terms of the act of July 1, 1902, a copy of which is hereto attached, marked "Appendix No. 6," the persons so identified were given six months after the notice of identification within which to remove to the Indian Territory. Many of the Indians so identified were full bloods and did not have the means or inclination to remove themselves. Accordingly, by the act of Congress approved March 3, 1903, there was appropriated the sum of $20,000 to assist in the removal of these Indians to Indian Territory and their subsistance after removal. Two hundred and ninety full-blood Indians were removed at the expense of the Government under this appropriation, and many hundreds of others either removed at their own expense or were removed by others and filed on allotments. One thousand and seventy-two persons who were identified failed to remove to Indian Territory, or, if they removed, returned to their former homes without submitting proof of their removal and settlement within the time required by law. Several reasons may be assigned for the failure of these persons to take advantage of their indentification. The commissioner in his report states some of these reasons as follows:

First. That many of them did not appreciate the value of allotment in the Choctaw-Chickasaw country;

Second. That some of them were very poor and had no means for transportation;

Third. That some of them who had removed became sick and died during the first winter after removal, and

Fourth. That those who survived advised their friends and relatives in Mississippi and Alabama of their experiences, which discouraged them in making attempt at removing.

As a matter of fact, most of the persons who failed to remove were full bloods, and would not remove at the present time if given an opportunity to do so. One of the writers of this brief has had occasion to visit the full-blood Indians remaining in Central Mississippi and Louisiana on several occasions. He found them poor, but contented with their lot. In conversation with them it was stated by them in many cases that if they had to remove to Oklahoma in order to get allotments they did not care to have them, as they preferred the home of their fathers to the new land in the West. It was also ascertained from conversation with intelligent planters in the vicinity in which these Indians live, that the white inhabitants of Mississippi and Louisiana discourage the removal of the Indians as much as possible, as the Indians constitute the most satisfactory labor which the white men can find in these States. Many of those now in Mississippi have gone to Indian Territory and, after staying a short time, returned voluntarily to their former homes. These have reported to those who have not emigrated and all are satisfied to remain where they are. If they were removed to Oklahoma, and we do not understand how anyone can contend that they are rightfully entitled to share in the lands of the Choctaw and Chickasaw Nations without removing, their action would probably be similar to the action of other bodies of Indians who have removed to Oklahoma from time to time, and just as soon as they were able to get enough money to do so, they would return to their homes in the East. This disposition of the Mississippi Choctaw Indians is well exemplified in the report of the Commission to the Five Civilized Tribes, submitted to the Secretary of the Interior under date of March 10, 1899.

A portion of that report is as follows:

> The Choctaw government in Indian Territory made repeated efforts to secure the removal of the Mississippi Choctaws to the Choctaw country, the last effort in this direction occurring in 1891, when the National Council of the Choctaw Nation, by act approved October 20, 1891, generously made an appropriation for the purpose of paying the expenses of certain Choctaw families therein named, and providing for the appointment of two commissioners to proceed to the State of Mississippi to collect said families and conduct them to the Choctaw country. Said commissioners performed this duty and a number of families removed to Indian Territory and remained there until after the payment of the "leased district" money, when, as we are informed, they returned to the State of Mississippi.

It will be impossible to force these Indians to remove to Oklahoma, and if it were possible or practicable there would be no way of keeping them there, and as soon as they were able to do so, they would sell or abandon their allotments and return to their haunts in the East.

Sentimentalists may deplore the condition of these Indians, but it is doubtful whether their lot would be as desirable or happy from their standpoint if they were removed from their present environments. The Mississippi Choctaw Indian, by reason of long separation from the Indians of the West, has come to be a class by himself. These Indians present as distinct characteristics and difference from the Choctaw Indians in Oklahoma as though they were members of an entirely different tribe. In traveling through Oklahoma the Mis-

sissippi Choctaw can always be distinguished from the descendants of the early emigrants. In Oklahoma they adopt the same manner of living as they at present have in Mississippi, that is, they remain in an isolated state, huddled together in small bands, making no effort to associate with or become a part of the Choctaw citizenship of the West.

The First Assistant Secretary of the Interior, on July 2, 1912, submitted a report to the chairman of the Committee on Indian Affairs of the House of Representatives, in which the Mississippi Choctaw question is discussed at length. In that report he refers to the bill under discussion and states:

> I am advised that if the work of reinvestigating and readjudicating the claims of Mississippi Choctaws be undertaken along the broad lines outlined in the bill introduced by Mr. Harrison, the work can not be accomplished within the time prescribed therein; that if the applicants are required to establish that they or some one of their ancestors were beneficiaries under article 14 of the treaty of 1830, a vast amount of evidence will necessarily have to be taken covering the family history of the applicants for more than 80 years; and that this work would be a repetition of work which has already been accomplished and in the great majority of cases would be of no benefit whatever to the applicants.

He further says in said report:

> With respect to the 1,070 persons who were identified as Mississippi Choctaws, but who failed to prove the facts of removal and settlement in the Choctaw and Chickasaw country, it may be said that, irrespective of their unfortunate condition of poverty and ignorance, there is grave question whether there is just ground, legal or equitable, for holding the Choctaw and Chickasaw Nations responsible for this failure to comply with the law. In fact, it may be urged by the tribes that responsibility, if any, rested upon the United States instead.

After fully going into the question from all standpoints, the Secretary concludes with the following:

> In view of the facts stated above, I am of the opinion that the bill should not be enacted into law.

As stated by the Secretary, this bill provides for a general reopening of this whole subject, and the readjudication under an identical law of the rights of these parties. As a matter of fact, many persons who were entitled to identification under the act of July 1, 1902, would be wholly unable to prove their claim under the provisions of the Harrison bill, and we can conceive of no case which would receive favorable consideration under the Harrison bill but what would have received a favorable decision, upon the submission of proper proof, under the former enrollment acts. The only difference is that the enrollment acts required the removal to and settlement within the Choctaw-Chickasaw country, which the Harrison bill does not require.

We believe that a careful consideration of the foregoing argument and citations will convince any fair-minded man that the Mississippi Choctaw Indian has been given every opportunity under the several laws and treaties to obtain a share of the tribal property of the Choctaw and Chickasaw Nations; that the Choctaws and Chickasaws have always been willing to meet these Indians more than half way, and that these two tribes have done all in their power to obtain the affiliation of their absentee brothers with them. However, if this argument has not succeeded in entirely convincing the Members of

Congress, there is one other phase of the matter which has not heretofore been touched upon, but which absolutely settles the whole controversy.

The treaty of 1830 was entered into between the Choctaw Indians and the United States more than 82 years ago. So far as we know, no one of the beneficiaries of the fourteenth article of this treaty is still alive. The last clause of that article, under which this claim arose, is as follows:

> Persons who claim under this article shall not lose the privilege of a Choctaw citizen, but if they ever remove are not to be entitled to any portion of the Choctaw annuity.

We contend and we believe that an analysis of this article will bear out this contention: That the rights guaranteed the Choctaws taking advantage of the fourteenth article were personal rights. Those identical Choctaws who desired to remain in the States and become citizens of them were permitted to do so by complying with certain provisions therein set forth, and upon doing so were entitled to reservations in Mississippi, and the further right was given to such persons to remove to the Choctaw Nation west and become citizens of said nation, with all the rights of citizenship, except to share in the annuities. No word appears in said article granting any rights or benefits to the descendants of the fourteenth-article beneficiaries.

The purpose of the removal of the nation to the west has been clearly shown. It was intended to remove all of the Indians out of the States, so that conflicts between the United States and the States would not arise over the government of the Indian country. The Indians would not agree to the treaty until provision was made for those who desired to remain and become citizens of the States, but an asylum was provided for those who remained, provided they should ever find conditions too hard for them in the States. They could reaffiliate themselves with the Choctaw Nation and again become citizens of that nation with all the privileges of citizenship, except a share of the annuities. But it is inconsistent with the whole theory of removal of these Indians to the west to construe article 14 as holding out the right of removal perpetually.

When the scheme of the allotment of lands and distributions of tribal property was taken up, it became necessary to make rolls of citizenship. Of necessity some period had to be fixed for the closing of these rolls. Before the act of July 1, 1902, was assented to by the tribes, it was insisted that a clause be incorporated providing that the rolls of citizenship be closed. The work of enrollment had been going on since the passage of the act of June 10, 1896, and a comprehensive scheme was provided by the act of July 1, 1902, for the reception of the applications of any persons who have not submitted their application under the former act, and for the final completion of the rolls.

After thus taking every precaution to see that ample opportunity had been given every one desiring to submit an application for enrollment there was inserted in this act the following provision:

> SEC. 35. No person whose name does not appear upon the rolls as herein provided shall be entitled to in any manner participate in the distribution of the common property of the Choctaw and Chicksaw Tribes, and those whose names appear thereon shall participate in the manner set forth in this agreement.

This provision was one of the inducements held out to the Choctaw and Chickasaw Indians to obtain their assent to the preparation of the rolls of citizenship of their tribes by the United States and the scheme for the allotment of their lands in severalty and the gradual incorporation of their domain and citizens into a State of the Union.

By this agreement no new applications for the identification of persons as Mississippi Choctaws could be received after six months after the ratification of the agreement. This gave to the Mississippi Choctaws until March 25, 1903, within which to submit their applications for identification, which was three months more time than was granted to any other class of applicants for citizenship. Appointments were made by the commission for hearings in Mississippi and Louisiana for the purpose of receiving any belated applications during the six months provided by this last act, but nearly all of the Mississippi Choctaw applications had already been submitted under the former law.

Evidence was received in the cases already presented until the closing of the rolls, and they were all decided under the law set forth in the Gift case (Appendix No. 7), which permitted the identification of the descendants of scripees. Congress fixed the period for the closing of the rolls as March 4, 1907, thus giving Mississippi Choctaws a period of 11 years after the first enrollment work was started within which to prove their claims and make settlement within the Choctaw-Chickasaw country.

It is true that descendants of fourteenth-article beneficiaries have been from time to time in large numbers admitted to citizenship in the Choctaw Nation upon their removal to and settlement within the boundaries of said nation, and it is also true that in the treaty of July 1, 1902, the right of full citizenship upon removal was granted by the tribe for a definite time to these persons, but there is no warrant of law or merit in the contention that the Choctaw Indians yet in Mississippi, who did not avail themselves of the benefits granted by the agreement of July 1, 1902, are as a matter of right now entitled to a share in the distribution of the property belonging to the Choctaw Nation in the West.

Even admitting that the fourteenth article of the treaty of 1830 meant all that is claimed for it by the proponents of this bill, the rights of these claimants would be barred by the provisions of the act of Congress of July 1, 1902. That Congress had the right to provide how the rolls of citizens should be made up and how citizenship should be determined is too well settled now to permit of serious contradiction. The mere expectation of a share in the tribal lands and moneys of the Choctaw and Chickasaw Tribes is not a vested property right. The Supreme Court, in the case of Stephens *v.* Cherokee Nation (174 U. S., 445–488), uses the following language:

> But in any aspect we are of opinion that the constitutionality of these acts in respect of the determination of citizenship can not be successfully assailed on the ground of the impairment or destruction of vested rights. The lands and moneys of these tribes are public lands and public moneys, and are not held in individual ownership, and the assertion by any particular applicant that his right therein is so vested as to preclude inquiry into his status involves a contradiction in terms.

Congress, in providing for the preparation of rolls upon which the tribal property was to be distributed, gave ample time to every ap-

plicant to submit his case. It also made residence in the tribe or removal thereto within a definite time a prerequisite to citizenship and provided that applications must be submitted within a specified time and that the rolls be closed on a definite date. The time during which the rolls were in preparation extended over a period of 11 years, and it was provided that "no person whose name does not appear upon the rolls as herein provided shall be entitled to in any manner participate in the distribution of the common property of the Choctaw and Chickasaw Tribes."

That this legislation is a proper exercise of the power of Congress over the Indians is shown by a number of decisions of the Supreme Court. (See Choctaw Nation *v.* United States, 119 U. S., 1; Stephens *v.* Cherokee Nation, 174 U. S., 445; Cherokee Nation *v.* Hitchcock, 187 U. S., 294: Lonewolf *v.* Hitchcock, 187 U. S., 553; Wallace *v.* Adams, 204 U. S., 415; Gritts *v.* Fisher, 224 U. S., 640.)

The Choctaws and Chickasaws have always been ready to deal with great liberality toward their absentee brothers. During all the time that they maintained their own governments they have stood with open arms to welcome these absentees into their midst. But we do not know of any single case in all the history of these tribes where anyone has been considered or found entitled to citizenship or to any of the benefits arising therefrom without taking up his residence in the Choctaw-Chickasaw country and showing his desire to affiliate with them. All of the Mississippi Choctaw legislation since 1896, when the United States took over the control of the affairs of these two tribes, has been purely in the nature of a gratuity, except in rare instances where one of the original fourteenth-article beneficiaries might have applied, and we do not feel that after our affairs were administered by the United States for a period of 11 years and rolls of citizenship were made and the allotments have all been completed that the Choctaw and Chickasaw Indians should be called upon to do anything further toward this class of Indians.

If there is any relief which the United States desires to give them, we will not be heard in any way to object, provided the United States furnishes this relief from its own land and funds, for we do not believe that any benefits which can be given by Congress to any Indians can repay the debt which our Government owes in general to the North American Indian. If there were any wrongs done the Choctaw Indians under the treaty of 1830, and history shows that there were many and flagrant wrongs perpetrated, they were not done by one Indian against another or one class of Indians against another, but were done by the Government of the United States or its officers. If these people, then, yet remaining in Mississippi are entitled to any relief, it is not the part of justice to right one wrong by committing another, and the Congress of the United States can not in good conscience repay any debt owed to the Mississippi Choctaw Indians by forcing the Choctaw and Chickasaw Indians, who breasted a wilderness and suffered untold hardships in conquering that wilderness and making possible the rich and populous State of Oklahoma, to share the comparatively small rewards of their labor and suffering with the Mississippi Indians, who took so little interest in the struggle and hardships of their brothers in the West as not even to be willing to move there after the

wilderness was overcome and assist in the maintenance of the tribal governments.

If this legislation is enacted into law, it will mean a delay in the final winding up of the affairs of these two tribes of at least five years; it will necessitate the reception and consideration of thousands of applications of persons whose cases have already been thoroughly adjudicated or who had an opportunity to have them adjudicated under former acts; and it will be another case of violated treaty obligations with these two tribes, of which history shows too many already, and will be an act of oppression and injustice visited upon them such as we can not believe Congress will seriously consider when all the facts in the case are placed before it.

We therefore ask for careful consideration of the facts and arguments herein set forth and request that the bill under consideration receive unfavorable action.

Respectfully submitted.

VICTOR M. LOCKE, JR.,
Principal Chief of the Choctaw Nation.
By P. J. HURLEY,
National Attorney for the Choctaw Nation.
DOUGLAS H. JOHNSTON,
Governor of the Chickasaw Nation.
By GEO. D. ROGERS,
National Attorney for the Chickasaw Nation.

APPENDIX No. 1.

CHAP. XXXIX. An act for the appointment of commissioners to adjust the claims to reservations of land under the fourteenth article of the treaty of eighteen hundred and thirty with the Choctaw Indians.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be appointed by the President, by and with the advice and consent of the Senate, three commissioners whose duty it shall be to meet in the State of Mississippi at such time and place, as the President shall appoint and designate, and there proceed to ascertain the name of every Choctaw Indian who was the head of an Indian family at the date of the treaty at Dancing Rabbit Creek, who has not already obtained a reservation under said treaty, and who can show by satisfactory evidence that he or she complied or offered to comply with all the requisites of the fourteenth article of said treaty, to entitle him or her to a reservation under said article; and also the number and names of all the unmarried children of such heads of families who formed a part of the family and were over ten years of age, and likewise the number and names of the children of such heads of families as were under ten years of age, and report to the President, to be by him laid before Congress, all the names of such Indians, and the different sections of land to which such heads of families were respectively entitled, together with the opinions of the commissioners, and whether any part of said lands have been sold by the Government, and the proofs applicable to each case.

SEC. 2. *And be it further enacted*, That before entering upon their duties each of said commissioners shall, before some judge or justice of the peace, take an oath faithfully to discharge the duties imposed by this act.

SEC. 3. *And be it further enacted*, That said commissioners are hereby authorized to appoint a secretary, whose duty it shall be to record correctly all the proceedings of said board and faithfully preserve the same as well as all depositions and other papers filed before said board, and who shall take an oath to discharge the duties imposed on him by this act.

SEC. 4. *And be it further enacted*, That upon the request of the commissioners it shall be the duty of the district attorney of the State of Mississippi to attend said board and give his assistance in procuring the attendance of witnesses, and his aid and advice in their examination, the better to enable the commissioners to ascertain the facts correctly in each case.

SEC. 5. *And be it further enacted*, That each of said commissioners shall receive, while in the discharge of the duties hereby imposed, a salary at the rate of three thousand dollars per annum, the secretary a salary at the rate of fifteen hundred dollars per annum, and the district attorney a salary at the rate of two thousand dollars per annum, to be paid quarterly out of any money in the Treasury not otherwise appropriated.

SEC. 6. *And be it further enacted*, That said commissioners shall have full power to summon and cause to come before them such witnesses as they may deem necessary, and to have them examined on oath, and if any witness shall testify falsely, with an intention to mislead said commissioners, such witness shall be guilty of wilful and corrupt perjury, and shall upon conviction before any jurisdiction having cognizance thereof suffer the punishment by law inflicted on those guilty of that offence.

SEC. 7. *And be it further enacted*, That nothing contained in this act shall be so construed as to sanction what is called contingent locations which have been made by George M. Martin for the benefit of such Indians as were supposed to have been entitled to other lands which have been sold by the United States, such contingent locations having been made without any legal authority, it being the true intend of this act to reserve to Congress the power of doing that which may appear just when a correct knowledge of all the facts is obtained.

SEC. 8. *And be it further enacted*, That this act shall be in force to the first day of March, eighteen hundred and thirty-eight, next, and no longer.

Approved, March 3, 1837 (5 Stat. L., 180).

CHAP. XIII. An act to amend an act entitled "An act for the appointment of commissioners to adjust the claims to reservations of land under the fourteenth article of the treaty of eighteen hundred and thirty with the Choctaw Indians."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the commissioners provided for in the act hereby amended, or a majority of them, shall have full power and authority to adjourn their sessions to such place or places, within the State of Mississippi, as in their judgment the interest of the Government and of the claimants may require such sessions to be held.

SEC. 2. *And be it further enacted*, That in the case of the death, resignation, or absence of any one of the said commissioners the remaining two commissioners shall have full power and authority to proceed and execute the powers given by this act or the act hereby amended.

SEC. 3. *And be it further enacted*, That the said commissioners shall have all the powers of a court of record for the purpose of compelling the attendance of witnesses, administering oaths, touching matters depending before them, preserving order, and punishing contempts; and shall have power to make all needful rules for the regulation of the proceedings before them, as well as to employ one or more interpreters, and one or more agents to collect testimony for the United States.

SEC. 4. *And be it further enacted*, That for defraying the contingent expenses of the said commission the sum of five thousand dollars be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated.

SEC. 5. *And be it further enacted*, That the said act shall be and remain in force until the first day of August next.

SEC. 6. *And be it further enacted, by the authority aforesaid*, That the compensation to be made to the district attorney for his services shall be equal to the compensation allowed to a commissioner under the act hereby amended.

SEC. 7. *And be it further enacted*, That nothing contained in this act, or the act which this is intended to amend, shall be so construed as to embrace the claim of any Indian or head of a Choctaw family who has removed west of the Mississippi River.

SEC. 8. *And be it further enacted*, That if it shall be proved to the satisfaction of said commissioners that any claimant has attempted, or shall attempt, to

substitute the child of any other Indian as and for his own, or has attempted or shall attempt, by his testimony, to substitute for the child of any other claimant the child of another Indian, the name of such claimant so attempting to make such substitution shall be stricken from the list of claimants.

Approved, February 22, 1838 (5 Stat. L., 211).

Appendix No. 2.

Chap. CLXXXVII. An act to provide for the satisfaction of claims arising under the fourteenth and nineteenth articles of the treaty of Dancing Rabbit Creek, concluded in September, one thousand eight hundred and thirty.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act approved on the third of March, eighteen hundred and thirty-seven, entitled "An act for the appointment of commissioners to adjust the claims to reservations of land under the fourteenth article of the treaty of eighteen hundred and thirty, with the Choctaw Indians; and also the act approved on the twenty-second day of February, eighteen hundred and thirty-eight, entitled "An act to amend an act entitled 'An act for the appointment of commissioners to adjust the claims to reservations of land under the fourteenth article of the treaty of eighteen hundred and thirty, with the Choctaw Indians,' so far as the same are not repealed or modified by the provisions of this act," be, and the same are hereby, revived and continued in force until the powers conferred by this act shall be fully executed, subject, nevertheless, to repeal or modification by any act of Congress. And all the powers and duties of the commissioners are hereby extended to claims arising under the nineteenth article of the said treaty, and under the supplement to the said treaty, to be examined in the same manner and with the same effect as in cases arising under the fourteenth article of the said treaty: *Provided*, That the salary of said commissioners shall not exceed the rate of two thousand five hundred dollars per annum.

Sec. 2. *And be it further enacted*, That subpœnas for the attendance of witnesses before the said commissioners, and process to compel such attendance may be issued by the said commissioners, or any two of them, under their seals in the same manner and with the same effect as if issued by courts of record, and may be executed by the marshal of any district, or by any sheriff, deputy sheriff, or other peace officer designated by the said commissioners, who shall receive for such services the same fees as are allowed in the district court of the United States for the district in which the same shall be rendered for similar services, to be paid, on the certificate of the commissioners, out of the contingent fund appropriated by the fourth section of the act secondly above recited, which was approved on the twenty-second day of February, one thousand eight hundred and thirty-eight, and which is revived by this act: *Provided*, That nothing herein contained shall be construed to revive such portion of the act approved the third day of March, one thousand eight hundred and thirty-seven, referred to in the first section of this act, as provides for the employment and pay of the district attorney of either of the districts of the State of Mississippi.

Sec. 3. *And be it further enacted*, That when the said commissioners shall have ascertained that any Choctaw has complied or offered to comply with all the requisites of the fourteenth article of the said treaty to entitle him to any reservation under that article, which requisites are as follows, to wit: That said Choctaw Indian did signify his or her intention to the agent in person, or by some person duly authorized and especially directed by said Indian to signify the intention of said Indian to become a citizen of the State, within six months from the date of the ratification of the said treaty, and had his or her name, within the time of six months aforesaid, enrolled on the register of the Indian agent aforesaid for that purpose; or shall prove to the entire satisfaction of the said commissioners and to the Secretary of War that he or she did signify his or her intention, within the term of six months from the date of the ratification of the treaty aforesaid, if his or her name was not enrolled in the register of the agent aforesaid, but was omitted by said agent; and, secondly, that said Indian did, at the date of making said treaty, to wit, on the twenty-seventh day of September, eighteen hundred and thirty, have and own an improvement in the then Choctaw country; and that having and owning an improvement at the place and time aforesaid did reside upon that identical improvement, or a

part of it, for the term of five years continuously next after the ratification of said treaty, to wit, from the twenty-fourth of February, eighteen hundred and thirty-one, to the twenty-fourth of February, eighteen hundred and thirty-six, unless it shall be made to appear that such improvement was, before the twenty-fourth day of February, eighteen hundred and thirty-six, disposed of by the United States, and that the reservee was dispossessed by means of such disposition; and, thirdly, that it shall be made to appear to the entire satisfaction of said commissioners and to the Secretary of War that said Indian did not receive any other grant of land under the provisions of any other article of said treaty; and, fourthly, that it shall be made to appear in like manner that said Indian did not remove to the Choctaw country west of the Mississippi River, but he or she had continued to reside within the limits of the country ceded by the Choctaw Indians to the United States by said treaty of twenty-seventh September, in the year eighteen hundred and thirty, it shall be the duty of said commissioners, if all and each of the above requisites shall be made clearly to appear to their satisfaction and the Secretary of War shall concur therein, to proceed to ascertain the quantity of land to which said Indian, by virtue of the fourteenth article of said treaty, is entitled to, which, when ascertained, shall be located for said Indian, according to sectional lines, so as to embrace the improvement, or a part of it, owned by said Indian at the date of said treaty; and it shall be the duty of the President of the United States to issue a patent to said Indian for said land if he or she be living, and if not to his or her heirs and legal representatives; and in like manner shall the commissioners aforesaid ascertain the quantity of land granted by said article to each child of said Indian, according to the limitations contained in said article, and locate said quantity for said children contiguous to and adjoining the improvement of the parent of such child or children; and the President shall issue a patent for each tract of land thus located to said Indian child if living, and if not to the heirs and legal representatives of such Indian child. But if the United States shall have disposed of any tract of land to which any Indian was entitled under the provisions of said fourteenth article of said treaty, so that it is now impossible to give said Indian the quantity to which he is entitled, including his improvements, as aforesaid, or any part of it, or to his children on the adjoining lands, the said commissioners shall thereupon estimate the quantity to which each Indian is entitled and allow him or her for the same a quantity of land equal to that allowed, to be taken out of any of the public lands in the States of Mississippi, Louisiana, Alabama, and Arkansas, subject to entry at private sale; and certificates to that effect shall be delivered, under the direction of the Secretary of War, through such agent as he may select, not more than one-half of which shall be delivered to said Indian until after his removal to the Choctaw territory west of the Mississippi River. The said commissioners shall also ascertain the Choctaws, if any, who relinquished or offered to relinquish any reservations to which he was entitled under the nineteenth article of the said treaty, or whose reservations under that article had been sold by the United States; and shall also determine the quantity to which such claimant was entitled, and the quantity of land which should be allowed him on extinguishment of such claim at the rate of two-fifths of an acre for every acre of the land to which said claimant was entitled, said land having been estimated under this article at fifty cents per acre: *Provided, nevertheless*, That no claim shall be considered or allowed by said commissioners for or in the name or behalf of any Indian claimant whose name does not appear upon the lists or registers of claimants made by Major Armstrong, special agent for that purpose, in conjunction with the three chiefs of the three Choctaw districts, and returned to the Department of War in January, eighteen hundred and thirty-two, and who does not appear from those registers to be entitled to a reservation under said nineteenth article.

SEC. 4. *And be it further enacted*, That the said commissioners, within two years from the time of their entering upon the duties of their offices, and as often as shall be required by the President of the United States, shall report to him their proceedings in the premises, with a full and perfect list of names of all the Choctaws whom they shall have determined to be entitled to reservations under this act; the quantity of land to which each shall be so entitled, the number of claims which can be located according to the provisions of the fourth section of this act, and such as cannot be located according to the provisions of the fourth section of this act; and the powers and duties of the

said commissioners shall cease at the expiration of two years from the time of the first organization of the board; and their proceedings may be terminated by the President at any time previous to the expiration of the said two years.

SEC. 5. *And be it further enacted*, That the commissioners to be appointed under this act shall also ascertain and determine the quantity of land to which any Choctaw or other person named in the supplement to the said treaty of Dancing Rabbit Creek was entitled by virtue thereof, and which such person has by any means been prevented from receiving.

SEC. 6. *And be it further enacted*, That if the President of the United States shall approve and confirm the determination of the commissioners heretofore appointed to investigate the claims existing under the fourteenth article of the said treaty of Dancing Rabbit Creek, in any case, he shall cause to be delivered to the claimant, if he be a Choctaw Indian, his legal representatives or heirs, certificates, as provided by the fourth section of this act, for the quantity of land to which such claimant shall appear, by such determination, to have been entitled, in full satisfaction and discharge of such claim: *Provided*, Such determination was made by adhering, in every instance, to the requisites contained in the fourth section of this act: *And provided, also*, That said claims, nor either of them, cannot now be located, according to the provisions of the fourth section of this act.

SEC. 7. *And be it further enacted*, That distinct accounts shall be kept of the certificates issued in satisfaction of the claims provided for by this act, and of all expenses attending the execution of the same; and the amount thereof shall be retained and withheld from any distribution to the States.

SEC. 8. *And be it further enacted*, That nothing in this act contained shall be so construed as to authorize the said commissioners to adjudicate any claim which may be presented by a white man who may have had, or now has, an Indian wife or family; and any patent to land which shall issue on any Indian claim under the provisions of the treaty aforesaid shall be issued to the Indian to whom the claim is allowed if living, and if dead to his or her heirs and legal representatives, any act of Congress or usage or custom to the contrary notwithstanding.

SEC. 9. *And be it further enacted*, That no claim shall be allowed under the fourteenth article of said treaty if the said commissioners shall be satisfied by such proof as they may prescribe that said claim had been, previous to the expiration of five years from the ratification of said treaty, assigned, either in whole or in part; and in case of a partial assignment or agreement for an assignment thereof the same shall be allowed so far only as the original Indian claimant was at that date the bona fide proprietor thereof.

SEC. 10. *And be it further enacted*, That all claims under either of the articles of said treaty mentioned above, or the supplemental articles thereof, which shall not be duly presented to said commissioners for allowance within one year after the final passage of this act shall be thereafter forever barred.

Approved, August 23, 1842 (5 Stat. L., 513).

APPENDIX NO. 3.

Act of Congress approved March 3, 1845 (5 Stat. L., 777).

That of the scrip which has been awarded or which shall be awarded to Choctaw Indians under the provisions of the law of twenty-third August, one thousand eight hundred and forty-two, that portion thereof not deliverable East by the third section of said law in these words, "not more than one-half of which shall be delivered to said Indian until after his removal to the Choctaw territory, west of the Mississippi River," shall not be issued or delivered in the West, but the amounts awarded for land on which they resided, but which it is impossible for the United States now to give them, shall carry an interest of five per cent, which the United States will pay annually to the reservees under the treaty of one thousand eight hundred and thirty, respectively, or to their heirs and legal representatives forever, estimating the land to which they may be entitled at one dollar and twenty-five cents per acre: *Provided further*, That so much of the law of twenty-third August, one thousand eight hundred and forty-two, as is inconsistent herewith is hereby repealed.

Act of Congress approved July 21, 1852 (10 Stat. L., 19).

For the interest on the amount awarded Choctaw claimants under the fourteenth article of the treaty of Dancing Rabbit Creek, of twenty-seventh of September, eighteen hundred and thirty, for lands on which they resided, but which it is impossible to give them, and in lieu of the scrip that has been awarded under the act of twenty-third of August, eighteen hundred and forty-two, not deliverable east, by the third section of said law, per act of third of March, eighteen hundred and forty-five, for the half year ending thirtieth of June, eighteen hundred and fifty-two, twenty-one thousand eight hundred dollars: *Provided*, That after the thirtieth day of June, eighteen hundred and fifty-two, all payments of interest on said awards shall cease, and that the Secretary of the Interior be, and he is hereby, directed to pay said claimants the amount of principal awarded in each case, respectively, and that the amount necessary for this purpose be, and the same is hereby, appropriated, not exceeding eight hundred and seventy-two thousand dollars: *Provided further*, That the final payment and satisfaction of said awards shall be first ratified and approved as a final release of all claims of such parties under the fourteenth article of said treaty, by the proper national authority of the Choctaws, in such form as shall be prescribed by the Secretary of the Interior.

Act of Congress approved August 30, 1852 (10 Stat. L., 42).

That the Secretary of the Interior be, and he hereby is, authorized to examine the reservation claims of the Choctaws known as Bay Indians and of those Choctaws in whose cases the scrip awarded by the late board of commissioners has not been issued; and where he shall find that such Indians are clearly entitled to land under the fourteenth article of the treaty of eighteen hundred and thirty, and under the several acts heretofore passed in relation to such claims, he is hereby authorized to extend to such claimants the provisions applicable to such claims in the acts of twenty-third August, eighteen hundred and forty-two, and of third March, eighteen hundred and forty-five.

Act of Congress approved March 3, 1853 (10 Stat. L., 227).

That the authority of the Secretary of the Interior to examine the claims of Choctaws to reservations of land under the treaty of eighteen hundred and thirty shall extend to all cases recommended by either of the boards of commissioners appointed to examine said claims, and his awards in scrip shall be received by them in full satisfaction of their claims aganst the Government arsing under said treaty, and the scrip thus awarded shall be received as other warrants in payment for any public lands subject to sale at private entry.

Appendix No. 4.

LAWS PASSED BY THE GENERAL COUNCIL OF THE CHOCTAW NATION AT ITS REGULAR SESSION COMMENCING OCTOBER 6, 1890.

No. 16.

An act recognizing certain persons as citizens of this nation.

Be it enacted by the General Council of the Choctaw Nation assembled, That Sandos Amos, his wife Ann, and William Amos, and Solomon Wilson and wife and their four children, all full-blood Choctaws and lately come to this nation from Mississippi, be, and they are hereby, recognized as citizens of the

Choctaw Nation, and entitled to all the rights, privileges, and immunities of citizens, and this act shall take effect and be in force from and after its passage.

Approved, Oct. 29, 1890.

W. N. JONES,
Principal Chief of the Choctaw Nation.

No. 17.

An act conferring citizenship on certain persons named.

Be it enacted by the General Council of the Choctaw Nation assembled, That Sexton Amos, Mat Sukke, Amos Bell, Jimson Bell, John Alusion, Sarah Wilson, Isaac Wilson, Mary Wilson, Eve Wilson, Horace Wilson, Thomas Barney, Isaac Simpson, and Tom Yark, all late of the State of Mississippi, are hereby recognized as citizens of this nation and entitled to all the rights, privileges, and immunities of citizens of this nation, and this act shall take effect and be in force from and after its passage.

Approved, Oct. 30, 1890.

W. N. JONES,
Principal Chief of the Choctaw Nation.

No. 25.

An act conferring citizenship on Mrs. Trehern and other Mississippi Choctaws.

Be it enacted by the General Council of the Choctaw Nation assembled, That Mrs. Trehern and her children, Joel Trehern, Joseph Trehern, Laura (Trehern) Walker, her husband Sam Walker and two children, Hannah (Trehern) Deloach, her husband Joseph Deloach and their three children, all late of the State of Mississippi, be, and are hereby, recognized as citizens of the Choctaw Nation and entitled to all the rights, privileges, and immunities of citizens of this nation, and this act shall take effect and be in force from and after its passage.

Approved, Oct. 31, 1890.

W. N. JONES,
Principal Chief of the Choctaw Nation.

No. 43.

An act recognizing the citizenship of Willis Jackson and his family.

Be it enacted by the General Council of the Choctaw Nation assembled, That Willis Jackson, his wife Mary Jackson and their children Minnie, Sam, Folsom, Laura, and Edmond Jackson, late of the State of Mississippi, are hereby recognized and declared to be citizens of this nation and entitled to all the rights, privileges, and immunities of other citizens of this nation, and this act shall take effect and be in force from and after its passage.

Approved, Nov. 13, 1890.

W. N. JONES,
Principal Chief of the Choctaw Nation.

No. 44.

An act making appropriation for the relief of Matt Sakki et al.

Be it enacted by the General Council of the Choctaw Nation assembled, That the sum of seventy-five dollars is hereby appropriated, out of any money in the treasury not otherwise appropriated, for the purpose of aiding Matt Sakki, Isaac Simsin, and Tom Yark, lately arrived from Mississippi, and to enable them to pay their board and traveling expenses while attending the general council for the purpose of having themselves recognized as citizens of this nation, and this act shall take effect and be in force from and after its passage.

Approved, Nov. 14, 1890.

W. N. JONES,
Principal Chief of the Choctaw Nation.

LAWS PASSED BY THE GENERAL COUNCIL OF THE CHOCTAW NATION AT ITS SPECIAL SESSION CONVENED ON APRIL 6TH, 1891.

No. 2.

An act for the relief of certain Mississippi Choctaws.

Be it enacted by the General Council of the Choctaw Nation assembled, That the sum of two hundred and ninety-five dollars is hereby appropriated out of any money in the treasury not otherwise appropriated to reimburse Cornelius Hickman and family (4), Presley Isham and family (4), Nat Sakki (1), Dixon Ripley (1), Taylor Bell (1), Jane Sakki (1), Lee Nobbee (1), Tom Sakki and family (5), James Sakki (1), Alex Sakki (1), Isaac Simpson and family (5), and Matt Sakki and family (3), Choctaws (late arrivals from the State of Mississippi) for their expenditures while immigrating, and to enable them to obtain the necessaries of life, they having arrived too late last year to raise a crop of any kind; and this act shall take effect and be in force from and after its passage.

Approved, April 4, 1891.

W. N. JONES,
Principal Chief of the Choctaw Nation.

No. 8.

An act admitting certain Mississippi Indians to citizenship.

Be it enacted by the General Council of the Choctaw Nation assembled, That Mrs. Anna Boyd, Mrs. Lenas Southerland, Mrs. Ozie Travis, Mrs. M. William, Choctaws lately from the State of Mississippi, and full sister of C. A. Bilbo, who has been heretofore admitted, and their descendants be, and they are hereby, declared citizens of the Choctaw Nation.

Be it further enacted that this act take effect and be in force from and after its passage.

Approved, April 8, 1891.

W. N. JONES,
Principal Chief of the Choctaw Nation.

No. 15.

An act admitting certain Choctaws from Mississippi to citizenship in the Choctaw Nation.

Be it enacted by the General Council of the Choctaw Nation assembled, That Joe Willis and his children, Nancy Selan, and Frank Willis and his sister Liney Willis, and Billy Willis and his children Lee and Serena Willis, Thomson Barnett, James Sakki and Thomas Sakki, and Wallace Sam and his wife Fannie Sam and their children Milley, Jeruzy, Luke, Silley, Lizzie, Liza, and Era Sam, all having just come from the old nation in Mississippi, are hereby admitted to all of the rights and privileges of citizenship in the Choctaw Nation, and this act shall take effect and be in force from and after its passage.

Approved, April 8, 1891.

W. N. JONES,
Principal Chief of the Choctaw Nation.

No. 16.

An act recognizing the citizenship of certain Mississippi Choctaws.

Be it enacted by the General Council of the Choctaw Nation assembled, That following Mississippi Choctaws, late arrival, to wit: 1, Cornelius Hickman; 2, Eliza Ann Hickman; 3, Jeff Hickman; 4, Presley Isham; 5, Ellen Isham; 6, William Isham; 7, Nat Sakki; 8, Dixon Ripley; 9, Taylor Bell; 10, Alex Sakki; 11, Jane Sakki; 12, Lee Nobbe; 13, Henson Haltenstyle; 14, Phoebe Haltenstyle; 15, Milton Haltenstyle; 16, Jesse Haltenstyle; 17, Fall Haltenstyle, are hereby recognized as citizens of this nation and are entitled to all the rights and privileges and immunities of other citizens of this nation; and this act take effect and be in force from and after its passage.

Approved, April 9, 1891.

W. N. JONES,
Principal Chief of the Choctaw Nation.

No. 17.

An act for the relief of certain Mississippi Choctaws.

Be it enacted by the General Council of the Choctaw Nation assembled, That the sum of $300 be, and the same is hereby, appropriated out of any money in the treasury, not otherwise appropriated, as a relief for the following late arrivals from Mississippi, to wit: 1, Joe Willis; 2, Nancy Willis; 3, Frank Willis; 4, Liney Willis; 5, Billy Willis; 6, Liza Willis; 7, Serena Willis; 8, Thompson Burney; 9, Wallace Sam; 10, Fannie Sam; 11, Jemzy Sam; 12, Luke Sam; 13, Sally Sam; 14, Liza Sam; 15, Lizzie Sam; 16, Asa Sam; 17, Henson Haltenstyle; 18, Phoebe Haltenstyle; 19, Milton Haltenstyle; 20, Jesse Haltenstyle; 21, Fall Haltenstyle; 22, Sanders Amos; 23, William Amos; 24, Ann Amos; 25, John Amos; 26, Solomon Amos; 27, Puss Amos; 28, Casson Wilson; 29, Belson Wilson; 30, Medarial Wilson; and this act to take effect and be in force from and after its passage.

Approved, April 9, 1891.

W. N. JONES,
Principal Chief of the Choctaw Nation.

LAWS PASSED BY THE GENERAL COUNCIL OF THE CHOCTAW NATION AT ITS REGULAR SESSION CONVENED IN OCTOBER, 1891.

No. 14.

An act for the relief of twenty-six Choctaws lately from Mississippi.

Be it enacted by the General Council of the Choctaw Nation assembled,

SECTION 1. That the sum of two hundred and sixty dollars is hereby appropriated for the relief of James Phillips and twenty-five others, whose names are heretoto attached; that the national auditor shall issue his warrant on the treasurer and he shall pay the same.

SEC. 2. That this act take effect and be in force from and after its passage.

Approved, October 21, 1891.

W. N. JONES,
Principal Chief of the Choctaw Nation.

No. 27.

An act conferring citizenship on Henry Lewis, Mississippi Choctaw.

Be it enacted by the General Council of the Choctaw Nation assembled, That one Henry Lewis, late of the State of Mississippi, is hereby recognized as a citizen of this nation, and entitled to all the rights, privileges, and immunities of a citizen of this nation, and this act shall take effect and be in force from and after its passage.

Approved, October 27, 1891.

W. N. JONES,
Principal Chief of the Choctaw Nation.

No. 13.

An act in relation to the appointing commissioners to remove the Choctaws from the State of Mississippi.

SECTION 1. *Be it enacted by the General Council of the Choctaw Nation assembled*, That there is hereby appropriated, out of any money in the national treasury not otherwise appropriated, and placed in the hands of commissioners (to be appointed by the principal chief), the sum of seventeen hundred and ninety-two dollars and fifty cents ($1,792.50) upon the certificate of the principal chief to the national auditor, then the auditor shall issue his warrant to the national treasurer, and the national treasurer shall pay the same for the purpose of paying the expenses of the following-named Choctaws who now reside in the State of Mississippi; that is,

Wesley Williams and 6 in family, Rufus York and 6 in family, Charley York and 5 in family, Tom York and 2 in family, Sampson York and 3 in family,

Dixon York and 6 in family, Scott Burnie and 3 in family, Robert Anderson and 4 in family, Edmond Martin and 3 in family, Ben Sakke and 3 in family, John Sakke and 5 in family, William Cultie and 5 in family, Martin Worlark and 8 in family, Dixon Willis and 4 in family, Tom Cheto and 11 in family, Tom Davis and 7 in family, James Battiest and 1 in family, Davis Welch and 4 in family, Sakkee Susan and 7 in family, Sis Simm and 3 in family, Jack Columbus and 2 in family, Thomas Benton and 3 in family, Willie and 4 in family, W. E. Martin and 4 in family, Joe Yale and 3 in family, Billy Gipson and 1 in family, Thompson Baker and 1 in family, making in all one hundred and fourteen persons.

SEC. 2. *Be it further enacted*, That the principal chief shall appoint two commissioners, who shall proceed at once to the State of Mississippi, collect up said Choctaws, and bring them to this nation. Said commissioners to be appointed and commissioned by the principal chief and to take the required oath of office before any judge of a court of record of this nation, and to give bond, payable to the principal chief, to be approved by the said judge, in the sum of seventeen hundred and ninety-two dollars and fifty cents (1,792.50) for the faithful performance of their duties, and that the sum of eight hundred dollars (800) is hereby appropriated, out of any money in the national treasury not otherwise appropriated, to said commissioners, and upon presenting their commission to the national auditor he shall draw his warrant on the treasury for the sum of eight hundred dollars in favor of said commissioners, and the national treasurer shall pay the same.

SEC. 3. *Be it further enacted*, That the said eight hundred dollars ($800)—that is, $400 each to said commissioners—shall be in full compensation for their service as such commissioners.

SEC. 4. *Be it further enacted*, That said commissioners shall make a full report of their actions to the next general council at its next regular term in Oct., 1892, and to return any balance of money on hand to the national treasurer; and this act shall take effect and be in force from and after its passage.

Approved October 20, 1891.

J. H. BRYANT,
Acting Principal Chief of the Choctaw Nation.

LAWS OF THE GENERAL COUNCIL OF THE CHOCTAW NATION PASSED AT ITS REGULAR SESSION IN THE YEARS 1895 AND 1896.

BILL NO. 2.

Resolution in regard to citizenship cases.

SECTION 1. *Be it resolved by the General Council of the Choctaw Nation assembled*, That all parties who claim citizenship to the Choctaw Nation, and intend proving the same, are hereby notified that they must file their petitions, as the law directs, on or before November 15th, 1895, as after said date no petitions will be entertained by the Choctaw Nation, and all parties who have their petitions filed are hereby notified that they must come forward and prosecute the same at once.

SEC. 2. *Be it further resolved*, That the national secretary is hereby requested to have this resolution printed in all the principal papers in the Choctaw and Chickasaw Nations, and that the sheriffs of each county are hereby notified to post this resolution in conspicuous places in their respective counties.

Approved, October 16, A. D. 1895.

JEFF GARDNER,
Principal Chief of the Choctaw Nation.

BILL NO. 5.

An act recognizing the citizenship of certain Mississippi Choctaws.

Be it enacted by the General Council of the Choctaw Nation assembled, That the following Mississippi Choctaws, late arrivals, to wit, Wm. Child, Mary Child, Martin Child, and Emil Child, Lester Jackson, Wilson Jackson, George Jackson, Joe Lewis, Amy Jackson, are hereby recognized as citizens of this

nation, and are entitled to all the rights, privileges, and immunities of other citizens of this nation; and this act take effect and be in force from and after its passage.

Approved, October 16, 1895.

JEFF GARDNER,
Principal Chief of the Choctaw Nation.

BILL No. 22.

An act admitting certain Choctaws from Louisiana to citizenship.

SECTION 1. *Be it enacted by the General Council of the Choctaw Nation assembled*, That Jim Jackson, Emma Jackson, William Murphy, Martin Jackson, Fannie Jackson, Mary Jackson, Jim Jackson, jr., Sophy Jackson, Frank Jackson, Bankston Johnson, and John Dorsett are hereby admitted to all the rights and privileges of citizenship in the Choctaw Nation, and that this act shall take effect and be in force from and after its passage.

Approved, October 28, 1895.

JEFF GARDNER,
Principal Chief of the Choctaw Nation.

BILL No. 36.

An act admitting certain Choctaws from Mississippi to citizenship in the Choctaw Nation.

Be it enacted by the General Council of the Choctaw Nation assembled, That Sarah Whittle and her children, to wit: Arcolah Whittle, age 22; Napoleon Whittle, age 18; Carrie Whittle, age 16; John Whittle, age 14; Arthur Whittle, age 11; Alma Whittle, age 7; Madge Lamar Whittle, age 5; and Clarence Whittle, age 3, are hereby admitted to all the rights, privileges, and immunities of citizenship in the Choctaw Nation, and this act take effect and be in force from and after its passage.

Approved, November 5, 1895.

JEFF GARDNER,
Principal Chief of the Choctaw Nation.

BILL No. 38.

An act admitting Betty A. Lewis and others.

SECTION 1. *Be it enacted by the General Council of the Choctaw Nation assembled*, That Betty A. Lewis and her children, to wit, Frank Lewis, age 16; Bettie Lewis, age 14; May Lewis, age 10; Annie, age 8; Cora, age 6 years; Curtis, age 4 years; Alice, age 2 years; Winnie, age 6 months, are hereby admitted to all the rights, privileges, and immunities of other Choctaws, and this act take effect and be in force from and after its passage.

Approved, November 6, 1895.

JEFF GARDNER,
Principal Chief of the Choctaw Nation.

BILL No. 43.

An act admitting Billy Baker and other Mississippi Indians to citizenship.

SECTION 1. *Be it enacted by the General Council of the Choctaw Nation assembled*, That Billy Baker, his children, Oscar Baker, age 15 years; Annie Baker, age 10 years; Sally Baker, age 7 years; and Solomon John, age 22 years; Susan John, age 19 years; Sissy John, age 13 years; and Hickman Lewis, age 27, all late arrivals from Mississippi, be and they are hereby admitted to all the rights and privileges in said Nation, of other Choctaws.

SEC. 2. *Be it further enacted*, That this act take effect and be in force from and after its passage.

Approved, November 8, 1895.

JEFF GARDNER,
Principal Chief of the Choctaw Nation.

BILL No. 44.

An act admitting Louis Traheon and his children to citizenship.

SECTION 1. *Be it enacted by the General Council of the Choctaw Nation assembled*, That Lonis Traheon and his children, Willie May Traheon, age 2 years; F. Traheon, age 6 months, be admitted to all the rights, privileges, and immunities with other Choctaws, and that this act take effect and be in force from and after its passage

Approved, November 9, 1895.

JEFF GARDNER,
Principal Chief of the Choctaw Nation.

BILL No. 52.

An act admitting Mattie Baggett and children.

SECTION 1. *Be it enacted by the General Council of the Choctaw Nation assembled*, That Mattie Baggett and her children, Willie Baggett, age 5; Gracy Baggett, age 6; and Ida Jane Baggett, age 9 months, be admitted to the rights and privileges of citizenship of other Choctaws, and that this act take effect and be in force from and after its passage.

Approved, November 11, 1895.

JEFF GARDNER,
Principal Chief of the Choctaw Nation.

APPENDIX No. 5.

An act entitled "An act defining the duties and powers of the commissioners, the jurisdiction of the court of claims, fixing their pay, and for other purposes."

SECTION 1. *Be it enacted by the General Council of the Choctaw Nation*, That whereas the Senate of the United States has awarded to the Choctaws the net proceeds of the land ceded by them to the United States by the treaty of Dancing Rabbit Creek, September, A. D. 1830, deducting therefrom the proper expenditures for surveying, selling, &c.

SEC. 2. *Be it further enacted*, That whereas the Choctaws, by the 12th article of the treaty of June 22d, 1855, accepted the same in full satisfaction of national and individual claims, thereby becoming liable and assuming the payment of individual claimants.

SEC. 3. *Be it further enacted*, That the three commissioners now appointed under 6th section of the constitution and two others to be appointed by the governor, who, after being commissioned and qualified according to law, shall be, and the same are hereby, constituted a court of claims, who, before entering upon the duties of their office, shall take the oath of office prescribed in the constitution, which oath may be administered by the governor or judge of any court of record.

SEC. 4. *Be it further enacted*, That the court of claims shall have jurisdiction over all claims for self-emigration, all claims under the 14th and 19th articles of the treaty of September, 1830, and also claimants under the supplement, claims for lost property in emigrating to this nation during the years 1831, 2, and 3, and for property scheduled to the General Government agents.

SEC. 5. *Be it further enacted*, That all claims against the nation shall be brought within 18 months from and after the passage of this act, and not thereafter. Claimants shall have the right to appear before said court of claims in proper person or by attorney; provided, that none shall be attorneys except those legally qualified to practice before the courts of this nation, being citizens thereof.

SEC. 6. *Be it further enacted*, That said court of claims shall, as well as claimants, have the power to summon any person or persons as witnesses on the part of the nation, and in case the personal attendance of the summoned can not be had depositions may be taken by either party before any judge or other officer legally qualified to administer an oath, sufficient notice being given to the adverse party of the time and place of taking the same.

SEC. 7. *Be it further enacted*, That the court of claims shall choose from among themselves the presiding commissioner, who shall be styled the chief

commissioner, and enter the same on the minutes of the court, and said chief commissioner shall have power to sign the minutes and certify any matter of fact of record in said court.

SEC. 8. *Be it further enacted*, That the court of claims shall have power to appoint a clerk, by and with the advice of the governor, to hold his office as long as business may require, but may be removed for any good and sufficient cause from office. Said clerk shall take the oath of office prescribed in the constitution before any judge of a court of record, and shall be allowed for his services three dollars per day, payable quarterly out of the national treasury by certified certificate from under the hand and seal of the chief commissioner of the court.

SEC. 9. *Be it further enacted*, That for preventing errors in entering upon the judgment or orders of said court the minutes of the proceedings every day shall be drawn up by the clerk before the next day's sitting of the court, when the same shall be read in open court and such corrections as may be necessary made and then signed by the chief commissioner of the court, and carefully preserved in a well-bound book to be kept for the purpose, if necessary, of making a pro rata payment on adjudicated claims of judgment rendered, and the last day of each sitting of said court the proceedings of the day shall be drawn up, read, corrected, and signed on the same day as aforesaid.

SEC. 10. *Be it further enacted*, That the commissioners shall for their services receive three dollars for every day they shall be actually engaged in the discharge of their duties as commissioners, payable quarterly out of any funds in the National Treasury not otherwise appropriated—a certificate, under the hand and seal of the chief commissioner, of the number of days and the amount shall be presented to the Auditor, who shall issue his warrant on the National Treasurer for the same.

And be it further enacted, That the witness or witnesses appearing in behalf of the nation in the court of claims will be allowed two cents per mile and fifty cents per day in attending the above said court, out of any money in the Treasury not otherwise appropriated, on the order or certificate of the chief commissioner, to the National Auditor for the same.

SEC. 11. *Be it further enacted*, That in case any vacancy shall occur in the court of claims, either by death, resignation, or removal from office, the governor shall have power to fill such vacancy by appointment.

SEC. 12. *Be it further enacted*, That in case of necessity the court shall have power to appoint a bailiff who shall execute all orders of said court and for his services shall receive the same as that of constable for like services.

SEC. 13. *Be it further enacted*, That the said court shall hold its session at the following places, to wit: Skullyville, one month, commencing 1st Monday in January, 1860; John Riddle's, two weeks, commencing 1st Monday in February, 1860; Boggy Depot, commencing third Monday in February, to hold two weeks; Mayhew, three weeks, commencing first Monday in March, 1860; Jno. Caffrey's, three weeks, commencing 4th Monday in March, 1860; Doaksville, one month, commencing third Monday in April, 1860; Lukfatah, one month, commencing third Monday in May, 1860; Jessee McKinney's, two weeks, commencing third Monday in June, 1860.

Be it further enacted, That in case the said court of claims shall not complete the adjudication of claims enrolled within specified times then additional terms shall be held by said court; times and place to be fixed by said court for final and entire adjudication.

Approved, October 21, 1859.

An act making distribution of the "net proceeds" money arising under judgment of the Court of Claims of the United States rendered on the 16th day of December, A. D. 1886.

SECTION 1. *Be it enacted by the General Council of the Choctaw Nation assembled*, That the Principal Chief of the Choctaw Nation is hereby authorized to appoint three competent persons as commissioners, one from each district, by and with the advice and consent of the Senate, who shall be commissioned by the principal chief, and before they enter upon the discharge of their duties shall take the oath of office prescribed by the constitution, and they shall elect one among themselves chief commissioner, and shall appoint a clerk and bailiff, and a majority of the commissioners shall constitute a quorum for the dispatch of business.

SEC. 2. *Be it further enacted*, That the duty of these commissioners shall be to proceed as soon as practicable to ascertain the legal heirs of the individual claims that have been adjudicated by the court of claims of the Choctaw Nation under acts of the General Council approved 1872 and May, 1875, which adjudication amounted to eight hundred and twenty-five thousand dollars ($825,000.00). If no reasonable objection appears, the commission shall issue certificates, signed by the commissioners present and attested by the clerk, for the amount of such claims to the person entitled thereto, and the United States Indian agent for the Five Civilized Tribes shall pay said certificates out of the net proceeds money.

SEC. 3. *Be it further enacted*, That the United States Indian agent for the Five Civilized Tribes is hereby authorized to make requisitions on the proper authorities of the United States on behalf of the Choctaw Nation for sufficient sums of money to pay the liabilities of the Choctaw Nation to the individual claims that have been adjudicated, or may hereafter be adjudicated, by the proper authorities of said Nation, and claims so adjudicated shall be reported to the United States Indian agent for the Five Civilized Tribes by the commission. The first requisition shall be for eight hundred and twenty-five thousand dollars ($825,000.00), to be paid to said agent out of the sum of one million four hundred and thirty-six thousand two hundred and seven and 15/100 dollars ($1,436,207.15), balance due the Choctaw Nation under judgment of the Court of Claims of the United States, rendered on the 16th day of December, 1886, for the purpose of settling the individual claims that have been adjudicated by the court of claims of the Choctaw Nation, under acts of the General Council approved 1872 and May, 1875.

SEC. 4. *Be it further enacted*, That said commission, for the better convenience of the claimants, shall hold their meetings at the following places, to wit: In the first district at Poteau Station, Sans Bois court ground, and McAlester, fifteen business days at each place. In the second district at the circuit court ground at Sulphur Springs, Nashoba County, twenty business days, and at Lukfatah, in Boktuklo County, ten business days. In the third district at the circuit court grounds, in Jackson County, thirty business days, and at Stringtown, in Atoka County, twenty business days, and in order to give every claimant an opportunity to appear before said board the commission shall hold thirty business days at Tushkahomma, which shall be the final meeting of said commission.

SEC. 5. *Be it further enacted*, That the clerk shall keep a fair and correct record of the proceedings of the commission, and the bailiff shall serve all orders and commands of the commission and keep order during business hours, and for that purpose he is hereby authorized to arrest any person for disturbing any person at the place of meeting, attending to business or for any other purpose, and turn such person over to the sheriff of the county where the meeting is held.

SEC. 6. *Be it further enacted*, That said commission shall, under no circumstances, make allowance to any person whose claim has been rejected by the revisory board held at Atoka in the year 1876, but may, and are hereby required to, examine any new claim that may be presented and, if just, allow the same.

SEC. 7. *Be it further enacted*, That if a vacancy occurs by death or refusal to serve the vacancy shall be filled by appointment of the principal chief; the principal chief shall set the time for the first meeting of the commission, to be held at Poteau Station, by giving fifteen days' notice to the commissioners, and the commissioners shall give fifteen days' notice before meeting at each place of meeting after the first meeting.

SEC. 8. *Be it further enacted*, That said commission shall receive for their services herein the sum of five dollars each per day and mileage ten cents per mile actually traveled in going to and from each place of meeting. The clerk and bailiff shall receive the same pay as a commissioner. The chief commissioner shall issue certificate on the national auditor for the pay of the officers of the commission, and the treasurer shall pay the same.

SEC. 9. *Be it further enacted*, That said commission shall procure at the expense of the Choctaw Nation all stationery necessary to run the business of the commission; the chief commissioner shall issue his certificate on the national auditor for the amount necessary to pay for the stationery, and the auditor issue his warrant on the treasurer for the same.

For the guidance of the commission in examining claims and issuing certificates, the principal chief is hereby authorized to immediately procure the roll of the individual claimants that appears of record in the Interior Department at

Washington, D. C., at the expense of the Choctaw Nation, payable on the certificate of the principal chief on the national auditor, and he shall issue his warrant on the treasurer for the same. All expenses incurred by the Choctaw Nation on account of the Court of Claims shall be refunded out of the net proceeds money after individual claims are paid.

SEC. 11. *Be it further enacted*, That the national secretary is hereby directed to furnish a certified copy of this act, one to the Commissioner of Indian Affairs, one to the Secretary of the Interior, and one to the United States Indian agent for the Five Civilized Tribes; and all acts coming in conflict with this act are hereby repealed, and this act shall take effect and be in force from and after its passage.

Approved, Nov. 6, 1888.

B. F. SMALLWOOD,
Principal Chief of the Choctaw Nation.

This is to certify that the above and foregoing (pages Nos. 1–5) is a true and correct copy from the original act now on file in this office.

Witness my hand and the seal of the Choctaw Nation this November 26, 1888.

A. TELLE,
National Secretary Choctaw Nation.

APPENDIX NO. 6.

SUPPLEMENTAL AGREEMENT BETWEEN THE UNITED STATES AND THE CHOCTAW AND CHICKASAW NATIONS APPROVED BY ACT OF CONGRESS OF JULY 1, 1902 (32 STAT. L., P. 641).

MISSISSIPPI CHOCTAWS.

41. All persons duly identified by the commission to the Five Civilized Tribes under the provisions of section 21 of the act of Congress approved June 28, 1898 (30 Stats., 495), as Mississippi Choctaws entitled to benefits under article 14 of the treaty between the United States and the Choctaw Nation, concluded September 27, 1830, may, at any time within six months after the date of their identification as Mississippi Choctaws by the said commission, make bona fide settlement within the Choctaw-Chickasaw country, and upon proof of such settlement to such commission within one year after the date of their said identification as Mississippi Choctaws shall be enrolled by such commission as Mississippi Choctaws entitled to allotment as herein provided for citizens of the tribes, subject to the special provisions herein provided as to Mississippi Choctaws, and said enrollment shall be final when approved by the Secretary of the Interior. The application of no person for identification as a Mississippi Choctaw shall be received by said commission after six months subsequent to the date of the final ratification of this agreement, and in the disposition of such applications all full-blood Mississippi Choctaw Indians and the descendants of any Mississippi Choctaw Indians, whether of full or mixed blood, who receive a patent to land under the said fourteenth article of the said treaty of eighteen hundred and thirty who had not moved to and made bona fide settlement in the Choctaw-Chickasaw country prior to June twenty-eighth, eighteen hundred and ninety-eight, shall be deemed to be Mississippi Choctaws, entitled to benefits under article fourteen of the said treaty of September twenty-seventh, eighteen hundred and thirty, and to identification as such by said commission, but this direction or provision shall be deemed to be only a rule of evidence and shall not be invoked by or operate to the advantage of any applicant who is not a Mississippi Choctaw of the full blood or who is not the descendant of a Mississippi Choctaw who received a patent to land under said treaty, or who is otherwise barred from the right of citizenship in the Choctaw Nation. All of said Mississippi Choctaws so enrolled by said commission shall be upon a separate roll.

42. When any such Mississippi Choctaw shall have in good faith continuously resided upon the lands of the Choctaw and Chickasaw Nations for a period of three years, including his residence thereon before and after such enrollment, he shall, upon due proof of such continuous bona fide residence made in such manner and before such officer as may be designated by the Secretary of the Interior, receive a patent for his allotment, as provided in the Atoka agreement,

and he shall hold the lands allotted to him as provided in this agreement for citizens of the Choctaw and Chickasaw Nations.

43. Applications for enrollment as Mississippi Choctaws, and applications to have land set apart to them as such, must be made personally before the commission to the Five Civilized Tribes. Fathers may apply for their minor children; and, if the father be dead, the mother may apply; husbands may apply for wives. Applications for orphans, insane persons, and persons of unsound mind may be made by duly appointed guardian or curator, and for aged and infirm persons and prisoners by agents duly authorized thereunto by power of attorney, in the discretion of said commission.

44. If within four years after such enrollment any such Mississippi Choctaw or his heirs or representatives, if he be dead, fails to make proof of such continuous bona fide residence for the period so prescribed, or up to the time of the death of such Mississippi Choctaw, in case of his death after enrollment, he and his heirs and representatives, if he be dead, shall be deemed to have acquired no interest in the lands set apart to him, and the same shall be sold at public auction for cash under rules and regulations prescribed by the Secretary of the Interior, and the proceeds paid into the Treasury of the United States to the credit of the Choctaw and Chickasaw Tribes, and distributed per capita with other funds of the tribe. Such lands shall not be sold for less than their appraised value. Upon payment of the full purchase price patent shall issue to the purchaser.

Appendix No. 7.

November 23, 1904.

Commission to the Five Civilized Tribes,
Muskogee, Ind. T.

Gentlemen: The department is in receipt of your report of June 3, 1904, resubmitting the record in the matter of the application of Jim Gift, M. C. R. 1659, et al., for identification as Mississippi Choctaws, rendered in compliance with departmental letters of February 25, 1903, and February 19, 1904.

From the testimony furnished by the witnesses in this case it appears that Jim Gift, the principal applicant, through whom the others claim, was born in Sumter County, Ala., a few years prior to the treaty of September 27, 1830. He is of mixed Choctaw and negro blood. His mother was a Choctaw woman named Lucy, who in early life lived in Greene County, Ala. From there she removed to Sumter County, Ala., where the principal applicant was born, and thence westward to Kemper County, Miss. In the latter county the principal applicant lived until he became an old man. He has lived near Lockhart, Lauderdale County, which is the county south of Kemper County, for the last 12 or 15 years.

It appears from the records of the Indian Office that in 1831 an application was made by a Choctaw women named Lucy for the benefits of article 14 of the treaty of September 27, 1830. This application was made at the "old factory" in Sumter County, Ala., which was situated within a few miles of her residence, on behalf of herself and her children. No record was kept of her application, and subsequently she presented an application in 1843 to the commissioners acting under the act of Congress of August 23, 1842 (5 Stats., 513). As a result of this application, scrip was issued to Lucy and to her children, among whom was a child named Jimmy, who was under 10 years of age when the treaty was made.

Out of the facts enumerated two questions arise: First, Is the testimony sufficient to identify the applicant and his mother Lucy with the Jimmy and Lucy of record to whom scrip was issued? and, second, Is the issuance of scrip under the act referred to sufficient evidence that the recipients of same complied or attempted to comply, in person or otherwise, with the provisions of article 14 of the treaty of September 27, 1830?

From your report of June 3, 1904, and decision of October 10, 1902, it appears that you are of the opinion that the testimony of Jim Gift is unreliable and that the testimony is accordingly insufficient to identify the applicant as the scripee of record.

Respecting the point of law involved, it further appears that you are of the opinion that section 41 of the act of July, 1902 (32 Stats., 641), contains no express provision authorizing the identification of scripees and their descendants. You are, however, for the reasons stated by you, of the opinion that said

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section does not operate in any respect to prevent the identification of persons as Mississippi Choctaws who were entitled to identification as such prior to said act, and that scripees and their descendants, where the facts are sufficient to warrant the same, are still entitled to identification.

The Commissioner of Indian Affairs, in his report of December 16, 1902, and the acting commissioner, in his report of November 2, 1904, are of the opinion that the testimony is sufficient to establish that Jim Gift and his mother Lucy are the identical Jimmy and Lucy to whom scrip was issued. The acting commissioner sets forth at considerable length his reasons for believing that the testimony of Jim Gift is reliable, and could not possibly be a fabrication. In respect to the point of law involved, the acting commissioner is also of the opinion that persons entitled to identification before the act of July 1, 1902, supra, were not, by virtue of that act, barred from identification. He is of the opinion, however, that section 41 thereof is in itself sufficient authority for the identification of scripees and their descendants as Mississippi Choctaws. Whether the acting commissioner's view as to section 41 is correct or not, the result of this case will be the same.

The department has compared the testimony furnished by the applicants and their witnesses with the information furnished by the Indian Office, and is satisfied that if the testimony is to be accepted as reliable it is sufficient to establish the conclusions of the Indian Office as to the questions of fact involved. The testimony connected with the parentage of Jim Gift showing his mixture of African and Choctaw blood, his mother's name and her various residences, her appearance before the Indian agent at "Yazoo" City, the date of her death, Jim Gift's place of birth, and his various places of residence, the testimony concerning his twin sister and the name of his other relatives, agrees substantially in so many respects with the testimony of a like character relative to the Jimmy and Lucy of record and the various members of the family to which they belonged; that the identity of Jim Gift with said Jimmy of record can not be reasonably questioned.

There remains to be considered the question of law involved relative to the rights of scripees and their descendants. Concerning said section 41 of the act of July 1, 1902, the Attorney General of the United States, in an opinion rendered June 19, 1903, used the following language:

"This agreement must, of course, be construed in the light of the circumstances under which it was made, and with a purpose to ascertain the intention of the parties thereto. Manifestly the parties did not intend to abridge the rights of any person theretofore entitled by law to identification as a Mississippi Choctaw, but they did intend to permit the identification of some persons who had not prior to that time been able to bring themselves within the requirements of the rules established by the commission—persons, the evidence of whose rights under the treaty of 1830, could not be secured, but who the Government of the United States and the Choctaw Indians, 'in their generosity,' desired should share in the benefits arising out of the provisions of that treaty. * * *

"In my opinion, paragraph 41 of the agreement of 21st March, 1902, does not require the identification of part-blood children of Mississippi Choctaws themselves identified solely by reason of full blood. Such children must in some other way, if possible, establish their claims to participate in the benefits arising from the treaty of 1830. They have not been deprived by the agreement of anything to which they were entitled before its conclusion."

From this opinion it seems clear that if the descendants of scripees were entitled to identification as Mississippi Choctaws prior to the ratification of the Choctaw-Chickasaw agreement, they are not now barred from such identification. The rule in force prior to the ratification of said agreement permitted the identification of applicants whose ancestors complied or attempted to comply, in person or by proxy, with article 14 of the treaty of September 27, 1830. It is therefore necessary to determine whether scripees and the descendants of scripees come within this rule. Article 14 of the treaty of 1830 states:

"Each Choctaw head of a family being desirous to remain and become a citizen of the States shall be permitted to do so by signifying his intention to the agent within six months from the ratification of this treay, and he or she shall thereupon be entitled to a reservation of one section of 640 acres of land, to be bounded by sectional lines of survey; in like manner shall be entitled to one-half that quantity for each unmarried child which is living with him over 10 years of age, and a quarter section to such child as may be under 10 years of age, to adjoin the location of the parent. If they reside upon said lands, intending to become citizens of the States, for five years after the

ratification of this treaty, in that case a grant in fee simple shall issue; said reservation shall include the present improvement of the head of the family or a portion of it. Persons who claim under this article shall not lose the privilege of a Choctaw citizen, but if they ever remove are not to be entitled to any portion of the Choctaw annuity."

Owing to the failure of the Government to furnish an agent promptly upon the ratification of the treaty, and for the further reason that said agent, after entering upon his duties, was derelict in his performance of the same and refused to enroll many who applied for the benefits of the treaty, only a mere handful of the persons entitled to such benefits were enrolled. To adjust and settle the land claims arising under this article Congress subsequently provided commissions to adjudicate all such claims, and in the act of August 23, 1842, supra, the commission was specifically instructed in section 3 thereof as to the requisites constituting sufficient compliance with article 14 of said treaty to entitle those complying therewith to lands guaranteed by it. Where applicants established to the satisfaction of the commissioners and the Secretary of War that they had complied with the requisites specifically enumerated in said section 3, patents were to be issued to them covering in whole or in part improvements made by them at the date of the treaty of Dancing Rabbit Creek. In cases where it appeared that applicants had done everything within their power to comply with the treaty but had failed to maintain continuous residence for five years after the ratification of the treaty upon the lands claimed by them, such failure being due to the fact that the Government had before the expiration of the five-year period patented said lands to others, a substitute arrangement was made whereby their claims were to be settled by the issuance of certificates entitling them to select an equal amount of public land in the United States open to selection in the States of Mississippi, Alabama, Louisiana, and Arkansas, the acceptance of such certificates by the applicants to operate as "a full satisfaction and discharge" of their claims against the United States to land under article 14 of the treaty of 1830.

It will thus be seen that patentees and scripees stood on exactly the same footing, so far as the merits of their cases were concerned, but the latter were compelled to accept as the fruits of their compliance with the treaty a substituted performance on the part of the Government, by which they received other lands than those which they were promised by the treaty. Can it be held that this substituted performance proposed by the Government as a settlement of the land claims of fourteenth-article applicants and accepted by them in full satisfaction of such claims, operates in any respect to alter their claims against the Choctaw Nation to a portion of its lands west of the Mississippi, claims founded upon the guaranty in said article 14 that "persons who claim under this article shall not lose the privilege of a Choctaw citizen"? The department does not so consider. The only relation existing between patents and scrip and land rights in the Choctaw Nation is this: So far as the rights of fourteenth-article claimants to Choctaw lands west of the Mississippi is concerned, patients and scrip serve only as evidence that the persons to whom they were issued elected for themselves and for persons claiming through them, not to relinquish their rights as Choctaw citizens, except to the annuities. Other than this the action of the United States in adjudicating the claims of these people against it for lands under article 14 has nothing whatever to do with their claims against the Choctaw Nation for a share of its lands lying west of the Mississippi.

The department is therefore of the opinion that scripees and their descendants come within the rule referred to above as being persons or descendants of persons who attempted to comply with article 14 of the treaty of September 27, 1830. In this connection it should be noted that it is not the intention of the department to hold that this is the only form of attempted compliance which can be recognized, or that other forms of attempted compliance will be recognized. Other cases of attempted compliance must be determined as presented.

You are accordingly directed, in accordance with the recommendation of the Indian Office, to identify these applicants as Mississippi Choctaws, and to so advise them and their attorneys. In so doing you are requested to inform them respecting the time limit within which they are required to remove to the Choctaw Nation after receiving notice from you.

A copy of the acting commissioner's letter of November 2, 1904, is inclosed herewith.

Respectfully,

THOS. RYAN,
Acting Secretary.

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